



**Republic v Omwerema (Criminal Case E007 of 2025)
[2025] KEHC 17760 (KLR) (1 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17760 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E007 OF 2025
AC BETT, J
DECEMBER 1, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

FRANCIS KEFA OMWEREMA ACCUSED

RULING

1. The Accused, who was initially charged with murder entered into a Plea Agreement to have the charges reduced to manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
2. After the court perused the Plea Agreement and ensured that the provisions of Section 137 (f) and (g) were understood by the Accused, and upon being satisfied that the Accused entered into the Plea Agreement when he was of sound mind and of his own volition having understood the facts contained in the Plea Agreement and the entire contents thereof, the charges and elements of the offence were read over and explained to the Accused who pleaded guilty to the offence.
3. The factual basis of the offence are that the Accused had a confrontation with his younger brother who is the deceased on 17/12/2024 after the deceased alleged that the Accused had lost their mother's spade. The confrontation was at their homestead at 2030 hours and escalated to a fight. The Accused was seen hitting the deceased on the head using a wooden jembe handle. The deceased got injured and staggered towards a banana plantation where he fell and remained. The Accused did not bother to assist the brother and the following day, the brother was found dead at the scene.
4. A post-mortem was conducted and the Pathologist concluded that the deceased succumbed to severe head injury secondary to blunt force trauma following assault.
5. The court called for a pre-sentence report which was filed on 28/7/2025.



6. In mitigation, the Accused said that he is remorseful. It was submitted that he is a first offender, aged 35 years and therefore still young and energetic hence useful to the community. He urged the court to allow him a second chance, noting that the community is willing to welcome him back. He prayed for a non-custodial sentence.
7. The prosecution conceded that the Accused is a first offender and saved the court time by entering into the Plea Agreement. Nevertheless, it pointed out that manslaughter is a felony and there is need to mete out a sentence that is proportionate to the offence for purposes of deterrence.
8. The pre-sentence report is indicative of an offender who is deeply remorseful for his actions. It states that some members of the Accused's family are willing to support his rehabilitation if the Accused shows remorse. The victim's family expressed the wish not to lose another child as they have already lost the deceased. They said that they are willing to help the Accused relocate in line with the cultural dictates. The victim's family and the community are not averse to a non-custodial sentence.
9. I have carefully considered the mitigating factors in this case. Although the Accused has demonstrated extreme remorse, he took the life of his brother in a senseless act of violence. After assaulting the brother, he did not bother to help him even after seeing that he had fallen down and was unable to rise up. His actions call for a deterrent sentence. People have to learn that violence is never a solution to conflict. It is absurd that a quarrel over a spade could lead to a sibling's death. It is also apparent from the pre-sentence report that the Accused smokes and drinks chang'aa. It could be that the offence was committed during a moment of inebriation as the Accused informed the Probation Officer. The Accused needs a place where he can undergo rehabilitation so that he can reform. A non-custodial sentence is not appropriate for such rehabilitation.
10. Consequently, and having weighed the mitigating factors against the aggravating factors while noting that the deceased succumbed to one blow, I hereby sentence the Accused to six (6) years' imprisonment. The days the Accused spent in custody shall be taken into account in computing the sentence as required by Section 333 (2) of the Criminal Procedure Code.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 1ST DAY OF DECEMBER 2025.

A. C. BETT

JUDGE

In the presence of:

Ms. Chala for the Prosecution

Ms. Wanyonyi for the Accused

Court Assistant: Polycap

