



**Republic v Kuya alias Ronny (Criminal Case E015 of 2024)
[2025] KEHC 8241 (KLR) (10 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 8241 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL CASE E015 OF 2024
JN KAMAU, J
JUNE 10, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

RONALD OMULUPI KUYA ALIAS RONNY ACCUSED

SENTENCE

1. This matter was consolidated with HCCRC No E016 of 2024 with this file being the lead file as they arose out of the occurrence.
2. The Accused person herein was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 (Laws of Kenya). He entered into a Plea Bargain Agreement on 28th May 2025 whereupon this court convicted him of the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
3. The facts of the case were that on 19th July 2024 at about 2000 hours, Nahashon Imbuchi and Joshua Ng'ambwa (hereinafter referred to the "1st and 2nd deceased") were on their way to a funeral when they met the Accused person who was walking ahead of them while carrying knives. Suddenly, the Accused person turned towards them and attacked them. He stabbed the 1st deceased and when the 2nd deceased intervened, he stabbed him on the left side of the stomach and he fell down.
4. The Accused person then ran to his home where he informed his mother that he had stabbed two (2) people. The 2nd deceased told the 1st deceased that the Accused person had stabbed him. The 1st deceased told him that he had also been stabbed on the groin. They agreed to seek help at their respective homes. The 2nd deceased left for his home after wrapping his shirt around the stab wound while the 1st deceased remained at the scene.
5. At about 2030 hours, one Bob Otuoma was on his way home when he saw someone lying beside the road. He identified that person as his neighbour, the 1st deceased. He also noted that he was lying in



- a pool of blood and was unconscious. He raised an alarm, neighbours rushed to the scene and police officers were informed. The police officers arrived at the scene, removed the 1st deceased's body to Coptic Mission Mortuary (sic) and investigations commenced.
6. At around 0400 hours that night, the 2nd deceased felt thirsty and went to ask for water at his uncle Josam Amulele's house. Seeing the state that he was in, his uncle called Timothy Ndeda and George Amuhala to take him to hospital. They went to Maseno Mission Hospital but they were referred to Jaramogi Oginga Odinga Teaching and Referral Hospital where he was admitted.
 7. On the morning of 20th July 2024, members of public went to the home of the Accused person, ransacked the home and subjected him to mob justice. He was, however, rescued by police officers who arrested and placed him in custody.
 8. On 25th July 2024, police officers visited the 2nd deceased in hospital and he recorded a statement stating that the Accused person stabbed him and the 1st deceased. He passed on that day and police officers were notified of his death.
 9. A postmortem examination on the body of the 1st deceased was carried out on 31st July 2024. The Pathologist formed the opinion that the cause of the 1st deceased's death was external blood loss secondary to sharp force trauma following assault. The Postmortem Report dated 31st July 2024 was produced as Exhibit 1.
 10. A postmortem examination on the body of the 2nd deceased was carried out on 7th August 2024. The Pathologist formed the opinion that the cause of the 2nd deceased's death was internal haemorrhage to the stomach as a result of stab wound. The Postmortem Report dated 7th August 2024 was produced as Exhibit 2.
 11. After the investigations were concluded, the Accused person was charged with the offence of murder of the 1st and 2nd deceased.
 12. Having entered into a Plea Agreement, the Accused person proposed that he serves a sentence of fifteen (15) years while the Prosecution recommended a sentence of twenty-five (25) years imprisonment.
 13. In his mitigation, the Accused person said that he was remorseful and regretted having committed the offence. He pointed out that he acted in self-defence from the attack of the two (2) deceased persons. He asserted that he did not intend to kill them. He added that he was twenty-six (26) years old and had a young family with one (1) child who entirely depended on him.
 14. It was his further submission that his wife ran away after his arrest and left his child with his grandmother and that it was important that the child gets the love and attention of his father. He was categorical that his abuse of alcohol and bhang contributed greatly to the commission of the offence. He pointed out that he had changed and sought for forgiveness from the court and the families of the two (2) deceased persons.
 15. He was emphatic that due to his age he could be of great help to the society as he was energetic. He stated that although his family, the deceased's family and the community did not want him back to the society, he sought for a non-custodial sentence to enable him take care of his young child. He added that in the event the court was inclined to give him a custodial sentence, then it should give him a sentence that he would serve quickly to enable him go back to his family.
 16. On its part, the Prosecution submitted that the Pre-sentence Report was negative. It pointed out that the families of the victims were still bitter and prayed that the Accused person be punished to the full



- extent of the law. It added that the community was also against him being released to the community or any leniency being shown to him.
17. It further pointed out that the home environment was still hostile and thus prayed for a custodial sentence for his own safety. It urged the court to consider the fact that there were two (2) people who died in the same transaction and the serious injuries they sustained. It further asked the court to take into account the objectives of sentencing noting that from the Pre-Sentence Report, the Accused person had committed the offence while still serving a Probation sentence having been committed for the offence of defilement. It was emphatic that he was not a first-offender.
 18. According to the Pre-Sentence Report of Mariam Korir, Probation Officer, Vihiga County that was dated and filed on 14th March 2025, the Accused person was twenty-six (26) years old. He attended Ebusakami Primary School but dropped out in class seven (7) due to lack of interest in formal education. Since then, he had been hawking and selling milk in Luanda town. He was married and blessed with one (1) child. However, his wife left when he was arrested and his child was put under the care of his mother. He was of good health but abused drugs especially alcohol and bhang.
 19. He had a history of criminality after being convicted with defilement in SOA No E044 of 2019. He served his sentence up to 12th July 2022 when he was placed on Probation after a sentence review. He was still under probation when he was arrested. He was set to complete his Probation Order on 11th July 2025.
 20. He admitted having committed the offence but blamed it on self-defence. He sought for leniency and an opportunity to provide for his young family.
 21. His family pointed out he was troublesome. His own mother pleaded that he should remain in prison and be rehabilitated on drug abuse which she believed was the source of his criminal activities.
 22. The Local Administration and the community reported that his security was at stake if he was released. They pointed out that he remained unacceptable and was treated as a social misfit. They were opposed to consideration on community rehabilitation or any lenient sentence.
 23. The Probation Office observed that he was not suitable to be considered for community rehabilitation.
 24. Notably, sentencing is one of the most intricate aspects of trial. Indeed, a trial does not end unless a sentence has been meted out. The principle of sentencing is fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing are retribution, incapacitation, deterrence, rehabilitation and reparation. The Sentencing Policy Guidelines in Kenya have added community protection and denunciation as sentencing objectives. The objectives are not mutually exclusive and can overlap.
 25. It was also important that the sentence communicate to the community, condemnation of his criminal act. The sentence would indirectly send a strong signal to deter would be offenders from committing such an offence. The sentence also had to be one that was hinged on retributive justice for the secondary victims.
 26. If the court did not take into account the three (3) objectives of deterrence, retribution and denunciation of his offence at the time of sentencing him, chances of the Accused person being reintegrated in the society would be next to impossible as there were possibilities of being harmed.
 27. Killing someone is an abomination in the society and that explained why the deceased's family and community did not want him released on a non-custodial sentence. Justice not only needed to be done but it had to be seen to be done.



28. It was clear from the facts of the case and the Pre-Sentence Report that he killed the first and 2nd deceased by stabbing them with a knife. This was intended to cause them harm. The Pre-Sentence Report painted him as a rough person who abused drugs and alcohol. He used to assault his own mother when he was intoxicated and at one time demolished her house. His mother said that she was now at peace that he was away. His wife was also fearful of him.
29. He committed the current offences while he was still on Probation for the offence of defilement which was a very serious offence. He had been banished from the community and his safety was at stake if he was released on a non-custodial sentence. Clearly, he could not benefit from a non-custodial sentence having failed to complete one.
30. His version of what transpired in regard to self- defence did not tally with the findings from the Social Inquiry by the Probation Office. He killed the first and 2nd deceased persons just for sport and without provocation. He did not value their lives at all.
31. Having considered the facts of this case, the Accused person’s mitigation, the Prosecution’s response thereto, the Pre-Sentence Report and bearing in mind that sentencing was the sole discretion of the court, this court came to the firm conclusion that a sentence of twenty five (25) years imprisonment was suitable and adequate herein purely because the Accused person entered into a Plea Bargain Agreement.
32. This court could have declined this Plea Bargain Agreement but opted to accept it nonetheless to bring closure to this matter. Indeed, this court was alive to the fact that a guilty person could go scot free in a trial due to lack of witnesses or other technicalities and it was always better to have a plea of “Guilty.” It is important to point out that if the matter had proceeded as a murder case, this court would have meted out on the Accused person a stiffer sentence for causing the death of two (2) innocent persons who were going about their own business to attend a funeral.
33. Going further, this court was mandated to consider the period that he spent in remand while his trial was on going in line with Section 333(2) of the [Criminal Procedure Code](#) Cap 75 (Laws of Kenya).
34. The said Section 333(2) of the [Criminal Procedure Code](#) provides that:-

“Subject to the provisions of section 38 of the [Penal Code](#) (cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code

Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody” (emphasis court).
35. Further, the Judiciary Sentencing Policy Guidelines provide that:-

“The proviso to section 333 (2) of the [Criminal Procedure Code](#) obligates the court to take into account the time already served in custody if the convicted person had been in custody during the trial. Failure to do so impacts on the overall period of detention which may result in an excessive punishment that is not proportional to the offence committed. In determining the period of imprisonment that should be served by an offender, the court must take into account the period in which the offender was held in custody during the trial.”



36. The requirement under Section 333(2) of the *Criminal Procedure Code* was restated by the Court of Appeal in *Ahamad Abolfathi Mohammed & Another vs Republic* [2018] eKLR.
37. The Accused person was arrested on 20th July 2024. His application for bond was declined. He was convicted on 28th May 2025. The period that he spent in custody as his trial was ongoing ought to be taken into consideration while computing his sentence.

Disposition

38. Accordingly, it is hereby directed that the Accused person be and is hereby sentenced to twenty five (25) years imprisonment to run from the date of this Sentence. His Probation Order that was still in force for the offence of defilement be and is hereby held in abeyance to allow his custodial sentence to start running, since if he was first left to finish the said non-custodial sentence, he could be a flight risk in view of the sentence he ought to serve herein.
39. The Probation Office is at liberty to move the court appropriately relating to the Probation sentence for offence of defilement matter in SOA No E044 of 2019 as this court cannot make any orders relating to that sentence in this file.
40. For the avoidance of doubt, the period between 20th July 2024 and 9th June 2025 be and is hereby taken into account while computing his sentence in line with Section 333(2) of the *Criminal Procedure Code* Cap 75 (Laws of Kenya).
41. It is so ordered.

DATED AND DELIVERED AT VIHIGA THIS 10TH DAY OF JUNE 2025.

J. KAMAU

JUDGE

