

KENYA / JUDGMENT

Republic v Simiyu [2026] KEHC 7160 (KLR)

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COURT

High Court

BEFORE

NIO Adagi

CASE / FILE NUMBER

Criminal Case E007 of 2023

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Republic v Simiyu (Criminal Case E007 of 2023) [2026] KEHC 7160 (KLR) (12 May 2026) (Sentence)

Neutral citation:

[2026] KEHC 7160 (KLR)

Republic of Kenya

In the High Court at Machakos

Criminal Case E007 of 2023

NIO Adagi, J

May 12, 2026

Between

Republic

Prosecution

and

Peter Simiyu

Accused

Sentence

1.The accused Peter Simiyu was initially charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code and by a plea bargain agreement entered into between the accused and the prosecution and accepted and recorded in Court on 20th day of January 2026. The said charges were reduced to manslaughter contrary to section 202 as read with section 205 of the Penal Code. The particulars of which were that on the night of 18th day of January 2023 at Mama Road Area, Syokimau Location, Athi River Sub-County, within Machakos

County unlawfully caused the death of George Omondi Otiende.

2.He pleaded guilty to the said charges, the fact of which were that the accused came out of nowhere and started insulting one of the customers at the bar prompting the deceased George Omondi Otiende to intervene. The deceased asked the accused to stop disturbing customers. The accused punched the deceased and he fell on the ground and when he stood up, he picked a bottle and hit the accused with it. A fight ensued between the accused and the deceased outside the bar. The accused refused to let go of the deceased neck and at the same time he was still bleeding from the bottle injury. Boda boda riders were called in to come and assist separate the accused and the deceased. Many boda boda riders came and managed to convince the accused to let go of the deceased. The accused then placed the deceased on his motor cycle and informed other boda boda riders that he was taking the deceased to the hospital and the other riders agreed to that. All of a sudden, the accused changed his mind and threw the deceased on the ground and that's when the deceased passed on.

3.A post mortem was conducted on 21st January 2023 and as a result of the examination, the Doctor formed the opinion that the cause of death was blunt force trauma on the head. Subsequently the accused was charged with the offence of murder which has now been substituted with manslaughter through plea bargain.

4.In mitigation, the accused through his Counsel Ms. Kwamboka stated that the accused committed the offence unintentionally. The accused has taken time while in custody to reflect on the offence he committed. The accused understands the gravity of the offence. He is a first offender who is remorseful. He submitted himself to the Police with the escort of his fellow boda boda riders. The accused has been of good behaviour while in custody and has participated in various activities. He has been born again and reformed his ways. The accused prays for leniency in the sentence to be meted on him and for the period he has spent in custody from 2023 to be taken into account.

5.The accused also had the opportunity to address the court and the sister to the deceased who was present in court representing the deceased's family. The accused prayed for forgiveness and stated that he was the one who killed the deceased and was very sorry. He stated that he was arrested on 19/01/2023 when he was 27 years. he prayed for a second chance to re-unite with his young family of a wife and daughter. He admitted that he had learnt how to manage his anger/temper for the duration he has been in custody and had changed and remained deeply remorseful.

6.The parties having reached a Plea Bargain Agreement, the court could not establish the motive for the accused suddenly changing his mind and throwing the deceased on the ground when he passed on instead of taking him to the hospital. I have looked at the Post-mortem Report produced as prosecution as Exhibit1 which confirmed that the cause of the deceased's death was a head injury due to blunt force trauma thereby confirming the great force the accused used which in my mind is evidence of bad intention on the part of the accused towards the deceased. The accused also informed court that he indeed caused the death of the deceased herein for

which he is very sorry.

7.The Sentencing Policy Guidelines 2023 outlines the objectives of sentencing at paragraph 1.3.1 as follows: - Sentences are imposed to meet the set out sentencing objectives. There will be instances in which the objectives may conflict with each other, in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

8.The sentencing objectives in Kenya have been captured in the Sentencing Guidelines 2023 to be the following: -a.Retribution: to punish the offender for his/her criminal conduct in a just manner.b.Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.c.Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.d.Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.e.Community protection: to protect the community by incapacitating the offender.f.Denunciation: to communicate the community's condemnation of the criminal conduct.g.Reconciliation: To mend the relationship between the offender, the victim and the community.h.Reintegration: To facilitate the re-entry of the offender into the society.

9.I have considered the sentencing objectives in totality, the nature of the offence, its circumstances, the Plea Bargain Agreement, mitigation, the remand period, the youthful age of the accused with a whole life ahead of him, the fact that the accused saved judicial time by pleading guilty upon entering into the Plea Bargain Agreement, the fact that he is remorseful and the fact that the family of deceased is still bitter with him and all the other necessary factors. The accused also acknowledges his mistake which he attributes to his temper and states that for the duration he has been in custody, he has learnt how to manage the temper.

10.This court is of the view that the accused had no right to take away the life of the deceased in the manner he did for whatever reason. He should have taken the deceased to the hospital just as he had indicated to his fellow boda boda riders and could be, the accused would not have pushed down the deceased occasioning his death.

11.It is to be noted that even though the accused has saved on the court's judicial time, the accused entered into Plea Bargain Agreement after the prosecution had called a total of nine (9) witnesses. That notwithstanding and whereas the accused entered into Plea Bargain Agreement, I am of the considered view and hold that a retributive, deterrent and rehabilitative sentence is the most appropriate in the circumstances of this case and would therefore sentence the accused to an imprisonment term of five (5) years with effect from 19/01/2023 when accused was arrested in this case. I have taken into account the provisions of section 333 (2) of the Criminal Procedure Code.

12.The convict has a right of appeal on sentence having entered into plea bargain agreement for which I convict him on his own plea of guilt.

13.It is ordered. This file is closed.

SENTENCE DATED, SIGNED & DELIVERED AT MACHAKOS THIS 12TH MAY, 2026.NOEL I.
ADAGIJUDGE

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