



REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATE'S ANTI-CORRUPTION COURT AT MILIMANI

ANTI-CORRUPTION CASE NUMBER E041 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

**GABREIL BUKACHI CHAPIA *alias* GABRIEL BUKACHI
CHAPIA.....ACCUSED**

JUDGMENT UPON A PLEA AGREEMENT

- (1) This Judgment straddles the **fourth, fifth and sixth steps** highlighted in the directions issued by this Court on 19th September 2025.
- (2) On the 6th day of November 2020, the Accused was arraigned in Court and initially faced fourteen (14) charges, which were later on 15th April 2022, substituted with sixteen (16) charges as follows:
 - (i) Under Count I, the Accused was charged with the offence described as forgery contrary to section 345 as read with section 349 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on an unknown date and place within the Republic of Kenya, with intent to deceive, the Accused forged a Bachelor of Science (Computer Science) Degree certificate number 02 7344 in his name, purporting to be a genuine document issued by Maseno University, a fact the Accused knew to be false.
 - (ii) Under Count II, the Accused was charged with the offence described as forgery contrary to section 345 as read with section 349 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on an unknown date and place within the Republic of Kenya, with intent to deceive, the Accused forged a Master's Degree certificate in Information Technology, number 030 475 in his name, purporting to be a genuine document issued by Daystar University on 24th November 2009, a fact the Accused knew to be false.
 - (iii) Under Count III, the Accused was charged with the offence described as forgery contrary to section 345 as read with section 349 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on an unknown date and place within the Republic of Kenya, with intent to deceive, the Accused forged a Diploma in Project Planning and Management certificate in his name, purporting to be a genuine document issued by the Catholic Diocese of Nakuru on 1st May 2005, a fact the Accused knew to be false.
 - (iv) Under Count IV, the Accused was charged with the offence described

as uttering a false document contrary to section 353 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on 9th December 2009, at Moi Teaching and Referral Hospital within the Republic of Kenya, with intent to deceive, the Accused knowingly and fraudulently uttered a false document namely the said Bachelor of Science Degree certificate to Jane Nyandiko employed by the said hospital, a fact the Accused knew to be false.

- (v) Under Count V, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on 23rd June 2010, at the Kenya Investment Authority within the Republic of Kenya, with intent to deceive, the Accused knowingly and fraudulently uttered a false document namely the said Master's Degree in Information Technology to Carolyn Onyango, Secretary of the Interviewing Panel, a fact the Accused knew to be false.
- (vi) Under Count VI, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on diverse dates between 29th April 2010 and 27th July 2020, at the Kenya Investment Authority (KIA) within the Republic of Kenya, with intent to deceive, the Accused knowingly and fraudulently uttered a false document namely the said Bachelor of Science Degree to Carolyn Onyango, a Human Resource and Administration Manager at KIA, a fact the Accused knew to be false.
- (vii) Under Count VII, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on diverse dates between 12th May 2014 and 1st June 2014, at the Nairobi County Government offices within the Republic of Kenya, with intent to deceive, the Accused knowingly and fraudulently uttered a false document namely the said Master's Degree in Information Technology, to Meshack Raboso Guto, the Secretary and CEO of the Nairobi County Government Public Service Board, a fact the Accused knew to be false.
- (viii) Under Count VIII, the Accused was charged with the offence described as uttering a false document contrary to section 353 of the Penal Code, Cap 63 of the Laws of Kenya. The particulars of the offence are that on diverse dates between 12th May 2014 and 1st June 2014, at the Nairobi County Government offices within the Republic of Kenya, with intent to deceive, the Accused knowingly and fraudulently uttered a false document namely the said Bachelor of Science Degree to Meshack Raboso Guto, the Secretary and CEO of the Nairobi County Government Public Service Board, a fact the Accused knew to be false.
- (ix) Under Count IX, the Accused was charged with the offence described as providing false information to a public entity contrary to section

46(1)(d) as read with section 46(2) of the Leadership and Integrity Act, 2012. The particulars of the offence are that on diverse dates between 2nd December 2009 and 1st July 2010, at Moi Teaching and Referral Hospital, he provided false information that he was a holder of the said Bachelor of Science Degree, a fact the Accused knew to be false.

- (x) Under Count X, the Accused was charged with the offence described as providing false information to EACC contrary to section 46(1)(d) as read with section 46(2) of the Leadership and Integrity Act, 2012. The particulars of the offence are that on 13th September 2017 in Nairobi within Nairobi County, he provided false information in his Self-Declaration Form under oath, that he has never engaged in wrongful conduct; never falsified personal records; never been dismissed from service; a fact the Accused knew to be false.
- (xi) Under Count XI, the Accused was charged with the offence described as giving false information to a person employed in public service contrary to section 129(a) of the Penal Code. The particulars of the offence are that on diverse dates between 29th April 2010 and 23rd June 2010, in Nairobi, the Accused knowingly gave false information to the MD/CEO of the Kenya Investment Authority, through his Curriculum Vitae, by stating that he was a holder of the said Bachelor of Science Degree and the said Master's Degree in IT, a fact the Accused knew to be false.
- (xii) Under Count XII, the Accused was charged with the offence described as giving false information to a person employed in public service contrary to section 129(a) of the Penal Code. The particulars of the offence are that on diverse dates between 12th May 2014 and 1st June 2014, in Nairobi, the Accused knowingly gave false information to the Secretary and CEO of the Nairobi County Government Public Service Board, through his Curriculum Vitae, by stating that he was a holder of the said Bachelor of Science Degree, a fact the Accused knew to be false.
- (xiii) Under Count XIII, the Accused was charged with the offence described as giving false information to a person employed in public service contrary to section 129(a) of the Penal Code. The particulars of the offence are that on diverse dates between 12th May 2014 and 1st June 2014, in Nairobi, the Accused knowingly gave false information to the Secretary and CEO of the Nairobi County Government Public Service Board, through his Curriculum Vitae, by stating that he was a holder of the said Master's Degree in IT, a fact the Accused knew to be false.
- (xiv) Under Count XIV, the Accused was charged with the offence of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 (hereinafter "ACECA"). The particulars of the offence were that between 1st August 2010 and 31st March 2012 within the Republic of Kenya, being a public officer employed by Moi Teaching

and Referral Hospital, the Accused fraudulently acquired public property to wit Kshs. 182,751, being salary paid to him by upon employment based on the said forged academic certificates.

(xv) Under Count XV, the Accused was charged with the offence of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 (hereinafter "ACECA"). The particulars of the offence were that between 1st August 2010 and 31st March 2012 within the Republic of Kenya, being a public officer employed by the Kenya Investment Authority, the Accused fraudulently acquired public property to wit Kshs. 3,314,662, being salary paid to him by upon employment based on the said forged academic certificates.

(xvi) Under Count XVI, the Accused was charged with the offence of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 (hereinafter "ACECA"). The particulars of the offence were that between 12th May 2014 and 31st January 2021 within the Republic of Kenya, being a public officer employed by Nairobi City County Government, the Accused fraudulently acquired public property to wit Kshs. 6,292,281, being salary paid to him by upon employment based on the said forged academic certificates.

- (3) On 19th September 2025, the learned Prosecution Counsel, Mr. Momanyi intimated to this Court that parties have since entered into a Plea Agreement in relation to this matter and proceeded to formally present the Agreement. Learned Counsel Mr. Simiyu representing the Accused and Ms. Mwangi watching brief for EACC having independently confirmed as much, on the even date, this Court issued directions accordingly.
- (4) In accord with step 1 pursuant to section 137G of the CPC - outlined in the said Directions dated 19th September 2025 - this Court did examine the Accused and was satisfied that at the time the agreement was entered into, the Accused was **competent, of sound mind and acted voluntarily.**
- (5) In accord with step 2 pursuant to section 137F of the CPC - outlined in the said Directions dated 19th September 2025 - before recording a plea agreement, this Court did not only **inform the Accused but was also satisfied that the Accused understood his rights.**
- (6) In accord with step 3 pursuant to section 137H(1)(a) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018 - outlined in the said Directions dated 19th September 2025 - this Court permitted the prosecution **to lay the factual basis of the Plea Agreement after which the Accused was granted an opportunity to admit or dispute the facts.** In this regard, the Accused admitted the truth and factual basis of the Plea Agreement.
- (7) In accord with step 4 pursuant to sections 137H(1) and 137J of the CPC – outlined in the directions dated 19th September 2025 – this Court turns to consider the Plea Agreement and either accept or reject it. Either way, this Court must assign reasons for acceptance or rejection thereof.

- (8) Acceptance of the Plea Agreement constitutes a Judgment of the Court and what logically follows after the Judgment is a sentence. See the implication carried in the marginal note of section 137L of the CPC. See also section 137H(2) of the CPC which provides that **“Where a plea agreement entered into in accordance with section 137A(a) is accepted by the Court in accordance with this section, the Court shall proceed to convict an Accused person accordingly.”**
- (9) This Court having scrupulously scrutinized and considered the Plea Agreement dated 12th September 2025 between the Director of Public Prosecutions and the Accused – and attested by the Investigating Officer and Advocate representing the Accused - pursuant to section 137H of the CPC, which agreement was entered on the strength of sections 137A and 137B of the CPC; and having further taken into account the fact that upon laying of the factual basis of the Plea Agreement by learned Prosecution Counsel pursuant to the obligation housed under section 137H(1)(a) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018, the Accused admitted the truth and factual basis of the Plea Agreement; and further, this Court having been satisfied that at the time the agreement was entered into, the Accused was competent, of sound mind and acted voluntarily; and besides, this Court having not only informed the Accused but was also satisfied that the Accused understood his rights, this Court is persuaded that the Plea Agreement has passed not only the legality test contemplated of such Agreements under Article 159(2)(c) of the Constitution and sections 137A-137O of the CPC, but also the consensual test contemplated by sections 137H(1)(a) of the CPC read with rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018 and section 137G of the CPC.
- (10) Accordingly – save the recommendation on compensation set out under paragraphs 18-21 of the Agreement and the further recommendation on the sentence set out under paragraph 22 of the Agreement which will be considered at the Sentence stage - this Court adopts all other terms of the Plea Agreement as a Judgment of this Court.
- (11) This adoption - for purposes of section 137H(1) of the CPC - signifies the acceptance of the Plea Agreement by this Court and accordingly incorporates the Plea Agreement into the record of this Court in accord with section 137H(1)(c) of the CPC.
- (12) For avoidance of doubt, in accordance with section 137H(b) of the CPC, this Plea Agreement is henceforth binding upon the parties thereto. This Court informs the Accused that just like in the civil process where such judgments are deemed final unless set aside on account of a factor which is capable of vitiating a contract, in the criminal process too, **such judgments are final and not amenable to appeal, except on basis of extent or legality of the sentence.** Section 137L of the CPC makes provision for the finality of such judgements as follows: **“(1) Subject to subsection (2), the sentence passed by a Court under this Part shall be final and no appeal shall lie therefrom except as to the extent or legality of the sentence imposed. (2) Notwithstanding subsection (1), the Director of Public Prosecutions, in the public interest and the orderly administration of justice, or the Accused person, may apply to the Court which passed the sentence to have the conviction and sentence procured pursuant to a plea agreement set aside on the grounds of fraud or misrepresentation. (3) Where a conviction or sentence has been set aside, under subsection (2), the provisions of section 137J shall apply *mutatis mutandis*.”**

- (13) Accordingly, Counts IV-XIII; and XVI having been withdrawn by the DPP under section 137A(1)(b) of the CPC - pursuant to section 137H(2) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules No. 47 of 2018 - this Court proceeds to record a plea of guilty on Counts I, II, III, XIV and XV only as agreed in the Plea Agreement.
- (14) Resultantly - pursuant to section 137H(2) of the CPC and rule 10 of the Criminal Procedure (Plea Bargaining) Rules, No. 47 of 2018 - this Court proceeds to convict the Accused on Counts I, II, III, XIV and XV as agreed in the Plea Agreement for the following offences:
- (i) **forgery contrary to section 345 as read with section 349 of the Penal Code, Cap 63 of the Laws of Kenya, as charged under Count I.**
 - (ii) **forgery contrary to section 345 as read with section 349 of the Penal Code, Cap 63 of the Laws of Kenya, as charged under Count II.**
 - (iii) **forgery contrary to section 345 as read with section 349 of the Penal Code, Cap 63 of the Laws of Kenya, as charged under Count III.**
 - (iv) **fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 (hereinafter "ACECA"), as charged under Count XIV.**
 - (v) **fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 (hereinafter "ACECA"), as charged under Count XV.**

**Delivered, Signed and Dated in Open Court at Milimani Anti-Corruption Court
this 19th day of September, 2025**

.....
C.N. Ondieki
Senior Principal Magistrate

In the presence of:
The Accused
Prosecution Counsel: Mr. Momanyi
Advocate for the Accused: Mr. Simiyu
Advocate watching brief for EACC: Ms. Mwangi
Court Assistant: Ms. Mutave