



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 16 OF 2018

STATE.....PROSECUTOR

VERSUS

SAMUEL ASWAN OKOT.....ACCUSED

SENTENCE

1. On 10th December 2019 this court convicted the accused person herein **SAMUEL ASWAN OKOT** for the offence of manslaughter for unlawful killing of Charles Otieno Waida and reserved the sentence pending submission of a probation report on the accused person.
2. I have considered the mitigation by the accused person **SAMUEL ASWAN OKOT** and the fact that he is a first offender the circumstances under which the offence was committed where an innocent life was lost purely because, according to the accused, they were drunk. I have also considered the Probation Officer's Report dated 28.1.2020 wherein the accused is said to be generally a well behaved person in the community and that he is remorseful for the offence.
3. I have also considered the fact that an innocent life was lost and that the Accused who is a young person has depended on his 2 young children who are being cared for by his parents as his spouse left him long before the incident subject of these proceedings.
4. I have also considered the fact that the Accused person did not plead guilty to the offence but that during mitigation and in the Social Inquiry Report, he pleads for leniency and states that the offence occurred because they were drunk and that he will not commit any offence. He is remorseful and regrets the incident leading to the unfortunate demise of the deceased who was his friend. The deceased too left behind young children who depend on their grandparents for survival.
5. According to the Probation Officer, the offender needs to be taken through sessions to help him quit alcohol consumption which landed him in trouble and that he be advised to go for a vocational training as he was poor in class work. This will, in the opinion of the Probation Officer, help the offender to be a peaceful person and a useful member of our society.
6. The Probation Officer also recommends Probation subject to the Court's discretion. However, I am not persuaded that a non-custodial sentence is sufficient for a lost life where the accused convict has subjected the court and prosecution to a full trial and motions.
7. In my humble view, custodial sentence in this case is appropriate sentence. The convict can enroll in life's skills in prison which will enable him learn to be a responsible person. No amount of punishment can bring back a lost life but the victims of such heinous crime to deserve justice. The deceased did not provoke the accused to a duel.
8. Accordingly, I sentence the accused person Samuel Aswan Okot to serve seven (7) years imprisonment for the offence of manslaughter. The sentence shall take into account the period already spent in prisons as contemplated in **Section 333(2) (proviso) of the Criminal Procedure Code**.
9. Orders accordingly.
10. Right of Appeal explained to the accused, 7 days.

Dated, Signed and Delivered at Siaya this 29th day of January, 2020.

R.E. ABURILI

JUDGE

In the presence of:

Mr. Okachi SPPC for the Prosecution

Accused person

Mr. Okello h/b for Ms. Akinyi for accused person

CA: Brenda and Modestar