



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 7 OF 2018

STATE.....PROSECUTION

VERSUS

JACK OCHUO OTIATO.....ACCUSED

RULING ON SENTENCE

1. Judgment in this case was delivered on 29th July 2020 convicting the accused person **Jack Ochuo Otiato** for the offence of Manslaughter contrary to section 202 as read with section 205 of the Penal Code. The court then reserved sentencing to await presentence report and mitigation.
2. I have considered the mitigation by the accused person and his counsel Mr. Ochanyo. I have also considered the Pre-Sentence Report filed on 23/9/2020 by Mr. Ochieng Ogola Probation Officer, Siaya.
3. The accused is a first offender and is remorseful. He was about 20 years when the offence was committed. He regrets the incident influenced by bad company as well as alcohol and drug abuse. He has been in remand for 2 years and 9 months and says he has reformed.
4. The accused promises to be law abiding given a non-custodial sentence recommended by the probation officer as he has strong communal ties and is not known to have other antisocial habits save for alcohol and drug abuse.
5. The family of the deceased and accused do not know each other and apart from the deceased's father who is bitter at losing his son, the other siblings have a reconciliatory mood.
6. The deceased's family lost a loving son. The accused is a young man who was just about 20 years old when he committed the offence. He has been in prison for nearly 3 years and shows remorse. The deceased deserved to live like the accused is. His life was cut short yet he was very young.
7. In view of the mitigation and the presentence report, I hereby exercise discretion and sentence the accused person to serve five (5) years imprisonment.
8. As the accused **Jack Ochuo Otiato** has already served 2 years and 9 months in prison custody, I order that the remainder of the prison term which is 2 years and three months shall be served on probation. He shall be released on probation.
9. Right of Appeal explained.
10. This file is now closed.
11. Orders accordingly.

Dated, signed and Delivered at Siaya this 23rd Day of September, 2020

R.E. ABURILI

JUDGE

In the presence of:

Mr. Okachi, Senior Principal Prosecution Counsel for the State

Mr. Ochanyo counsel h/b for Mr. Korongo for accused person

Accused person in prison- via Microsoft Teams

CA: Brenda