

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAROK

CRIMINAL CASE NO. 7 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

NICKSON PETER SADERA.....ACCUSED

J U D G E M E N T O N S E N T E N C E

1. The accused stands convicted of manslaughter contrary to section 202 as read with 205 of Penal Code (Cap 63) Laws of Kenya in respect of his accused baby daughter.
2. The issue before me is to ascertain the proper sentence to be imposed.
3. In this regard, Ms. Torosi the prosecutor informed the court that the accused is a first offender. She urged the court to take into account the following. The victim was his defenceless daughter. A life has been lost. She also urged the court to take into account the injuries inflicted on the victim. Furthermore, she urged the court to impose a deterrent sentence.
4. Ms. Saika, counsel for the accused urged the court to take into account the following matters in her mitigation. The accused is a young man and is very remorseful. The accused pleads for lenience and has urged the court to impose a non-custodial sentence.
5. In sentencing the accused, I am required to take into account both the mitigating and aggravating factors. The mitigating factors include the following matters. The accused is a first offender. The accused has been in custody since 6/3/2019, which translates to about one year and seven months.
6. The aggravating factors include the following. A life has been lost. The deceased was the baby daughter of the accused. The accused inflicted severe injuries.
7. It is important to point out that it is not proper for the prosecutor to urge the court to impose a deterrent sentence. In urging this court to impose a deterrent sentence, the prosecutor was acting outside her mandate. I have ignored it.
8. After taking into account all these matters, I find that the appropriate sentence is seven years' imprisonment, which I hereby impose.

Judgment signed, dated and delivered at Narok this 28th day of October, 2020 in the presence of Ms. Torosi for the Republic and Ms. Saika for the accused.

J. M. BWONWONG'A.

J U D G E

28/10/2020