



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL APPEAL NO. 103 OF 2017**

**(CORAM: R. E. ABURILI - J.)**

**EAO.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT ON SENTENCE REVIEW**

1. The Appellant herein at the hearing of her appeal challenging both conviction and sentence, changed her plea to the Court and stated that she was not challenging her conviction because she fought with her deceased sister-inlaw and she fatally injured her. That the deceased was the aggressor.
2. She pleaded for the Court to consider reviewing her sentence.
3. I ordered for Probation Officer's Report which was filed on 1/2/2019. The Probation Officer states that the Appellant is HIV positive and has 4 children who are in Class 1 - 7. They are all minors. She is aged 31 years and is reported to be of good character. She has enrolled to sit for her ***Class 8 Examination*** this year 2019. She is a widow who survives by selling small things to fend for her children.
4. She is on drugs.
5. The victim's spouse and family are said to have forgiven her and visit her in prison. They have no issue with a non-custodial sentence. She has been in prison for 4 years now. She is serving a life sentence.
6. Having considered the Appellant's mitigating circumstances and the Probation Officer's Report and the fact that a life was lost in the cause of a fight, and taking into account the objects of sentencing are, among others, to rehabilitate the offender as well as to deter the would-be offender, I find the sentence meted out on the Appellant to have been excessive in the circumstances.
7. Accordingly, I exercise my discretion and reduce the life sentence imposed on the Appellant. The Appellant has already served about 4 years in jail. I resentence the appellant to serve five years in prison to be calculated from the date of her arrest on 2/12/2015.
8. **As she has served nearly 4 of the 5 years, I hereby order that the Appellant shall be released to serve Probation service for the remainder of the prison term. She will be under close supervision of Siaya County Probation Officer.**

**Orders accordingly.**

***Dated, Signed and Delivered in Open Court at Siaya this 26<sup>th</sup> Day of February 2019.***

**R.E. ABURILI**

**JUDGE**