

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HCCR. NO. 71 OF 2017

REPUBLIC.....APPLICANT

-VERSUS-

CHARLES NGOTHYO NDILE.....RESPONDENT

RULING ON SENTENCE

1. **Charles Ngothyo Ndile** was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code.

2. Following a successful plea bargaining agreement, the charge was reduced to manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. The accused pleaded guilty and was convicted of the same.

3. From the facts presented to the court it came to the court's knowledge that the accused and deceased were first cousins. The deceased's father and the deceased's mother were brother and sister. They therefore share grandparents.

4. Upon conviction and strong mitigation by Mr. Hassan for the accused, and the fact that the accused was a first offender, the court called for a pre-sentence report which was filed by the County Probation Officer on 14th May, 2019. The said report is so detailed.

Both families, the administration, neighbours, his former head teacher at Mbiini Primary School; his school teacher at G.K Prison School among others were interviewed. All have positive reports about him.

5. The accused while in prison sat for his KCPE and scored 260 out of 500 marks in 2015. He was born on 30th July, 1996 and so was aged 18 ½ years at the time of commission of this offence. He is now aged 22 years, 10 months.

6. I have considered all the mitigation, the Probation Officer's Report and the circumstances surrounding the commission of this offence. I have also taken into account the fact that the accused was first arraigned in court on 17th March, 2015 which is exactly four (4) years and two (2) months, ago.

7. I am in agreement with the County Probation Officer's report that the accused requires appropriate guidance and counselling. **I therefore sentence him to three (3) years' probation. He will be reporting to the Sub-County Probation Officer at Mukaa for further instructions.**

8. He is clearly informed of the consequences of failure to adhere to the guidelines by the Probation Officer, in respect to the Probation Order.

Orders accordingly.

DELIVERED, SIGNED AND DATED THIS 23RD DAY OF MAY, 2019 IN OPEN COURT AT MAKUENI.

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H. I ONG'UDI

JUDGE