

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MIGORI

CRIMINAL CASE NO. 23 OF 2018

REPUBLIC.....PROSECUTOR

-VERSUS-

STEPHEN MARWA NYAMBURI.....ACCUSED

SENTENCE

1. The Accused person herein was formally charged with the information of murder and after a trial he was found guilty and convicted of the offence of manslaughter on 02/05/2019. On 29/05/2019 parties tendered submissions and mitigations on sentence where the Defence Counsel urged this Court to assist the accused person who has a problem of drug abuse with a light custodial sentence to facilitate recovery and rehabilitation.

2. The prosecution likewise prayed for a custodial sentence and submitted that although the accused person is a first offender he is liable to life imprisonment.

3. I have considered this matter carefully. The circumstances under which the accused person committed the offence were well captured in the judgment. As stated therein the accused person was engaged in a confrontation with the deceased which ended up with the death of the deceased. I have also taken into account the Pre-Sentence Report on record and its recommendation that the accused person is not suitable for a non-custodial sentence.

4. The Defence admitted that there is need to assist the accused person in rehabilitating him given that he is a drug addict. The Pre-Sentence Report likewise echoed the position and noted that the home environment is not conducive for rehabilitation purposes and that the family members of the deceased are still bitter with the accused person such that his life will be in danger if released.

5. Indeed this Court has a duty to aid an offender to be rehabilitated and corrected such that he/she can be easily reunited with the community. That can be done while the offender is either incarcerated or even when out of prison. In this case the circumstances demand that the accused person be incarcerated in the course of the rehabilitative process. All relevant matters considered I hereby sentence the accused person to 5 years' imprisonment.

It is so ordered.

DELIVERED, DATED AND SIGNED AT MIGORI THIS 28TH DAY OF JUNE 2019

A. C. MRIMA

JUDGE

Sentence delivered in open Court and in the presence of:

Mr. Mwita Kerario Counsel for the Accused person.

Mr. Kimanthi, Senior Principal Prosecution Counsel instructed by the Office of the Director of Public Prosecutions for the State.

Evelyne Nyauke – Court Assistant