

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 3 OF 2019

REPUBLIC.....PROSECUTION

VERSUS

DENNIS KEMBOI.....ACCUSED

SENTENCE

1. The accused person has been convicted of manslaughter contrary to section 202 as read with section 205 of the Penal Code, after a plea bargain agreement was entered into between the accused and the State.
2. I then ordered the filing of a pre-sentencing report. I have perused the said report prepared by Mr. David Rono the Probation Officer Kericho on a date not indicated but filed on 25th October 2019.
3. It is recommended in the said report that the court considers imposing a probation sentence to facilitate reconciliation in the family where the accused aged 19 killed his own uncle.
4. Learned counsel for the accused Mr. Sang also submitted in mitigation that the accused was young, remorseful and a family man with two children and was remorseful and asked for leniency. Counsel further urged the court to consider a non-custodial sentence.
5. I note from the facts of the case enumerated by the Assistant Director of Public Prosecutions that both the accused and the deceased persons were drunk at the time of assault and the deceased was actually the aggressor who hit the accused's house door severally at night and refused to heed the persuasion of neighbours to leave the accused alone. The accused is a young man and a first offender. The accused and the deceased are related, but the family of the deceased are still reluctant to have the accused in their midst. I note also that the accused was arrested in January this year, which is 9 months now.
5. A life was lost, and a lethal weapon, a knife was used. In my view, such violent crimes need to be discouraged. I thus think that a non-custodial sentence as proposed by the Probation Officer will not be an appropriate punishment as a way to send a message of discouragement to others.
6. Considering all the above factors, I sentence the accused person to serve two (2) years imprisonment. Right of appeal explained.

Dated at Kericho this 31st day of October 2019.

George Dulu

JUDGE