

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.104 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

WINFRED NDILA KIOKO.....ACCUSED

RULING ON SENTENCE

Winfred Ndila Kioko was tried, found guilty and convicted for the offence of murder in a judgment delivered on 11th day of December 2017. In her mitigation through her defense counsel Mrs. E. B. Nyamongo, advocate, the accused told the court that she has been remanded in custody for three (3) years and has rehabilitated well; that she is a staunch catholic and her character has changed; that she has attended paralegal training and now understands the basic principles of the law and also acquired skills in knitting, beadwork, making handbags and weaving carpets and that given a chance in life she could make good use of these skills. She told the court she is deeply remorseful about the death of the deceased who was her boyfriend and seeks forgiveness. She said she is a mother of 11 year old daughter who lives with her parents in Kangundo; that she comes from very humble background and that she is a first offender. She seeks non-custodial sentence.

This court called for pre-sentencing report from a probation officer. The same has been filed and I have read it. In that report the accused continues to deny knowledge about what happened on the night the deceased died stating that she was drunk and cannot remember what happened.

I have considered the mitigation of the accused and the circumstances of this case. This court rejected the defense of intoxication advanced by the accused. I note that she is a first offender and she is remorseful although still relying on intoxication to deny knowledge of what happened. I have taken into account that the accused has been in custody for three years. I also note that the family of the deceased expects compensation from the family of the accused. It is beyond this court to follow up on that issue. Suffice it to state that this court will proceed to sentence the accused in accordance with the law and after taking into account her mitigation.

While alive to the fact that there is no amount of years served in jail that can bring back the life lost and that the family of the deceased has been denied a bread-winner, it is my considered view that justice will be served if the accused is sentenced to serve a term of imprisonment. I therefore sentence Winfred Ndila Kioko to serve ten (10) years imprisonment. This sentence has been arrived at after taking into account the three years the accused has spent in custody. The accused has been informed of her right to appeal the judgment and this sentence within 14 days from today's date.-+ Orders shall issue accordingly.

Delivered, signed and dated this 12th day of March 2018.

S. N. Mutuku

Judge