

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 10 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

JAFARI OMARI NYAKUNDI.....ACCUSED

RULING ON SENTENCE

1. The accused, JAFARI OMARI NYAKUNDI, has pleaded guilty to the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code (Chapter 63 of the Laws of Kenya) following a plea bargain agreement. The accused accepted that he unlawfully caused the death of EVANS THOMAS ONYINKWA on 15th March 2018 at Kenyena Shopping Centre within Kisii County. The accused and deceased were relatives.

2. The facts outlined were that on the material evening the deceased was drinking at Masaba Bar at Kenyena when the accused came and demanded to be given alcohol. When the deceased refused, a scuffle ensued between the two of them. They were separated and the accused left and came back after a while stabbed the deceased once in the chest. He left the bar and surrendered to the police. The deceased died as a result of the stab wound to his chest which penetrated the blood vessels of the heart.

3. The deceased's family has called for a stiff sentence given that their loved one died an unjustified death.

4. I have considered that the accused is young and has expressed remorse and that the offence took place in a bar following a fight where he was drunk. On the other hand, I also accept that the death of a person must be recognized.

5. Taking all factors into account, including his plea of guilty at the first instance and plea of leniency, I hereby sentence the accused JAFARI OMARI NYAKUNDI to ten (10) years imprisonment.

Sentence read and pronounced in open Court this 23rd July 2018.

D.S Majanja

Judge

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions

Mr. Bigogo, Advocate for the Accused