



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT KISII

CRIMINAL CASE NO.94 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

JACKSON ONGERI OMANGA.....ACCUSED

SENTENCE

1. The accused herein **JACKSON ONGERI OMANGA** was charged with one count of **Murder** contrary to **Section 203** as read with **Section 204 of the Penal Code**.
2. The charge was on 14th July 2015, by a plea bargain agreement entered into between the accused and the State, reduced to a lesser charge of **Manslaughter** contrary to **Section 202** as read with **Section 205 of the Penal Code**.
3. The particulars of the charge are that on the night of 17th September 2014 at Kemera Location, in Manga District within Nyamira County in the Republic of Kenya, unlawfully cause the death of **ELVIS OTWOMA ONGERI**.
4. The accused pleaded guilty to the reduced charge of manslaughter and was consequently convicted on his own plea of guilty.
5. The accused and the deceased were father and son respectively. The circumstances of the offence are that on the night of 17th September 2014, the accused picked a quarrel with his wife over food that he wanted his wife to serve him and when the wife told him that there was no salt, he started beating her. The wife escaped leaving behind her two children the deceased and one Edwin. The accused turned his anger on the children whom he beat mercilessly but Edwin managed to escape leaving behind the deceased who was not so lucky as he sustained severe head injuries that led to his hospitalization and eventual death on 18th September 2014.
6. In mitigation, Mr. Bigogo for the accused submitted that the accused was very remorseful and blamed his actions on alcohol as he had no intentions of killing his own child.
7. Mr. Bigogo further added that the accused is sickly having tested HIV positive and therefore, a non-custodial sentence would enable him seek better treatment and home-based care.
8. The Probation Officers pre-sentence report filed in court on 18th November 2015 recommended a non-custodial sentence for the accused.

9. I have taken due consideration of the facts of the case, the accused's mitigation and the recommendations of the Probation Officer.

10. I note that the accused has been in custody for over 1 year while awaiting his trial which period serves as adequate lesson to him to keep away from irresponsible consumption of alcohol and violence.

11. The accused caused the death of his own little child whom he should have protected from danger or harm.

12. Accordingly, I hereby sentence the accused herein, **JACKSON ONGERI MOCHAMA** to 2 years non-custodial sentence during which time he will be under the supervision of the Probation Officer of his area.

Dated, signed and delivered in open court this 20th day of January 2016

HON. W. OKWANY

JUDGE

In the presence of:

- Otieno for the State
- Accused in person
- Omwoyo: court clerk