

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 62 OF 2013

REPUBLICPROSECUTOR

VERSUS

K. E. N.....ACCUSED

RULING ON SENTENCE

1. The accused was convicted of the offence of Manslaughter after plea bargaining.
2. The circumstances of the offence are clear from the facts.

There is now evidence before the court from the Notification of birth serial no. [particulars withheld], that the subject herein was born on 13th August 1997. His child health care immunization card has also been produced.

3. It follows that when this offence was committed on 23rd December, 2013 he was sixteen (16) years four (4) months old. And as at today he is seventeen (17) years seven (7) months. He has therefore to be sentenced under the Children's Act, as he is below the age of eighteen (18) years.
4. I once again wish to advise the Probation officers that it is not the duty of the families of victims to dictate to the court the manner of sentence to mete out to accused persons. Once a report has been called for by the court the officers should present the facts on the ground to the court, and leave it to the court to determine how to apply them to the issue at hand in accordance with the law.
5. In this particular case its clear the subject committed this offence while still a minor and is still a minor. He can therefore not be sent to prison.

The Probation officer Isaac Rotich is hereby directed to seek for a vacancy in a Borstal Institution for the subject within the shortest time possible. Mention 23rd March, 2015 for further orders.

Dated, signed and delivered this 13th day of March 2015.

H.I. ONG'UDI

JUDGE

In the presence of :

M/s Mwangi for State

M/s Koech for accused

Lagat – Court Assistant