



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUSIA**

**CRIMINAL APPEAL NO. 20 OF 2014**

**(Being An Appeal arising out of the sentencing of D. O. OGOLLA CM, in Busia CMCR No. 1579 of 2014 delivered on 25<sup>TH</sup> June 2014).**

GLADYS ENYELE.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

**J U D G E M E N T**

1. Gladys Enyele (the Appellant) is serving a sentence of seven (7) years imprisonment having been convicted of the offence of Manslaughter contrary to section 202 as read with section 205 of the Penal Code. The conviction was on her on plea of guilty.
2. It had been alleged that on 19<sup>th</sup> June 2014 at Kachoria village, Kwilare Sub location within Busia County she unlawfully killed Richard Nyakuro Juma.
3. This Appeal is against sentence only. In arguing the Appeal, the Appellant told Court that she is the sole bread winner to her family of four children. That she has left the children behind with one to care for them. She sought the forgiveness of this Court.
4. What the Appellant was doing was restating her plea of mitigation. She did not argue or seek to demonstrate that the sentence was unlawful or harsh. The maximum sentence for the offence of manslaughter is life imprisonment. It was correctly pointed out by the State Counsel, in opposing the Appeal, that the Learned Magistrate explained his sentence in the sentencing notes. The Learned Magistrate remarked:

**“I have considered the mitigation of accused. I have also considered the findings on the post mortem form (Exh 1) which showed that body of deceased had injuries on various parts including shoulders, thighs and the abdomen (liver). This confirms that accused must have also participated in physically fighting the deceased. In my opinion, she deserves a custodial sentence I sentence accused to serve seven (7) years imprisonment”.**

The Sentencing Court considered the severity of the injuries. I cannot fault it. This Appeal must fail and is hereby disallowed.

**DATED, SIGNED AND DELIVERED AT BUSIA THIS 29<sup>th</sup> DAY OF APRIL 2015.**

**F. TUIYOTT**

**J U D G E**

**IN THE PRESENCE OF:**

**KADENYI.....COURT CLERK**

.....**FOR THE APPELLANT**

.....**FOR THE RESPONDENT**

