



**REPUBLIC OF KENYA**

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

**HIGH COURT CRIMINAL NO. 04 OF 2014**

**BETWEEN**

**PETER MACHEGWA KEENO ..... ACCUSED**

**AND**

**REPUBLIC ..... RESPONDENT**

**SENTENCE**

1. The accused person was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the penal code. By a plea agreement dated 26<sup>th</sup> May 2015 entered into by the accused and the State the said charges were reduced to manslaughter contrary to Section 202 as read with 205 of the penal code the particulars of which were that on 1<sup>st</sup> day of January 2014 at Bogiakumi sub-location in Kisii South District with Kisii County in the Republic of Kenya unlawfully caused the death of John Makori.
2. The accused person pleaded guilty to the said charge and was convicted on his own plea of guilty. The facts leading to the commission of the offence pleaded to were that on the new year of 1<sup>st</sup> January 2014 at 3.00p.m the deceased who was a brother of the accused had a quarrel over a land boundary. A neighbour by the name John Mbaka intervened and asked the warring brothers to accompany him to his home to settle the matter.
3. As they were walking , the accused followed them armed with a panga and tried to hack the deceased but the said neighbour held him back resulting into the said neighbours finger being chopped off. As the injured neighbour was being rushed to Gesonso police station to report, the accused pursued the deceased attacked him with the panga fatally wounding him.
4. From the post mortem report produced herein as exhibit number 1 the deceased had multiple cuts wounds to the head with skull fractured and brain tissue visible, deep cut wound across the right shoulder measuring 10cm x 4cm, deep cut wound across right hand, deep cut wound on the left forearm with fractured humerus, amputated left wrist, deep cut wound at right and left tibia fibular resulting into a fracture thereof.
5. In mitigation Mr. Bigogo for the accused submitted that the accused committed the offence while drunk and that he was remorseful. He stated that the deceased who was his brother had accosted the accused and his family before and was trouble some. He submitted that though the accused used excessive force to deal with his brothers he pleaded for non-custodial sentence.
6. The court ordered for pre-sentencing and victim impact report which has been presented in which it is stated that the community in general has no objection to the accused being released back to society as he is not a risk to them.
7. Having taken into account the nature of the injuries inflicted upon the deceased by the accused and noting that the action was a ripple effect of the break down in our family values and systems where parties are now unable to amicably settle family disputes, taking into account the fact that the accused is 58 years old, I am still of the considered view that the accused ought to be given custodial sentence as a warning and deterrence to members of society.

8. I have taken into account the fact that the accused has been in custody since 6/1/2014 and would therefore sentence the same to three (3) years imprisonment back dated to 6/1/2014.

**Delivered, signed and dated at Kisii this 30<sup>th</sup> day of July 2015.**

**J. WAKIAGA**

**JUDGE**

**In the presence of:**

**Mr. Okenyo for Bigogo advocate for the accused.**

**Miss Boyon advocate for the state.**