



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO. 57 OF 2012

REPUBLICPROSECUTOR

VERSUS

ARON GEORGE MORARA.....ACCUSED

SENTENCE

1. The accused person herein **ARON GEORGE MORARA** was initially charged with the offence of **Murder contrary to Section 203** as read with **Section 204 of the Penal Code**.
2. By a plea bargain agreement entered into on the 16th July 2015 between the accused person and the State, the said charge was reduced to **Manslaughter contrary to Section 202** as read with **Section 205 of the Penal Code**.
3. The particulars of the charge were that on 8th March 2012 at Manga District within Nyamira County in the Republic of Kenya, unlawfully caused the death of **JAMES NYANDORO SIMBA**.
4. The accused person pleaded guilty to the said charge and was consequently convicted on his own plea of guilty.
5. The facts leading to the commission of the offence pleaded to were that on 8th March 2012 at around 8p.m. the deceased, **JAMES NYANDORO SIMBA**, was drinking at a bar in Manga Town but did not have money to pay for the beers leading to some of his items being detained by the bar man. The deceased called his friend one Dennis Mosei who settled the bill for him. The deceased was later joined by the accused and four other people. As the accused and the deceased were walking home after the drinking spree, an argument arose and the two had a physical confrontation that left the deceased lying on the ground bleeding from the nose and ears. The deceased was rushed to hospital but he died from the injuries 7 days later on 1st March 2012.
6. A post mortem report produced in court as exhibit 1 disclosed that the cause of death as cardio-pulmonary arrest secondary to severe head injury due to blunt trauma.
7. In mitigation, Mr. Soire, advocate for the accused submitted that the accused was remorseful and he pleaded for leniency stating that the disagreement between him and the deceased was precipitated by drunkenness. He added that the accused was married with 3 children even though his wife had left him.
8. The pre-sentence and victim impact report filed in court on the 23rd September 2015 revealed that the accused behavior was occasioned by his over-indulgence in alcoholic drinks and cannabis sativa (*bhang*). The report further states that the accused's family and surrounding community had forgiven him and were

willing to accept him back to their midst.

9. I have taken into account the circumstances surrounding the crime in question and the fact that both the accused and the deceased were reported to have been very drunk to the extent that the bar man even refused to serve them with any more drinks and they had to be assisted to get back to their homes. I have further taken into account the fact that the pre-sentence report filed by the probation officer supports the accused being granted a non-custodial sentence. I note that the accused is a fairly young man who still has a chance of changing his wayward behavior for the sake of his young dependants/children.

10. Accordingly and taking into account the fact that the accused has been in custody for over 3 years now, I sentence the accused person to two **(2) years non-custodial sentence** during which period he will be supervised by the Probation Officer of his area.

11. It is so ordered.

Signed, Dated and Delivered in open court this 27th day of October, 2015.

HON. W. A. OKWANY

JUDGE

In the presence of:

- Mr. Majale for the State
- Mr. Bigogo for Soire for the Accused
- Omuga: Court clerk