

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.116 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

EVANS BOGONKO MOSE.....1ST ACCUSED

EVANS ONKUNDI NYANG'AU.....2ND ACCUSED

RULING ON SENTENCE

1. The 1st accused herein **EVANS BOGONKO MOSE** was charged with the offence of Murder. The particulars were that on 19th October 2013 at Nyabite Trading Centre in Nyamira District within Nyamira County in the Republic of Kenya, jointly with another unlawfully caused the death of **ELIJAH CHARANA SIMEON**.
2. On 6th July 2015, the 1st accused decided to plead guilty to a lesser charge of manslaughter.
3. The incident took place when both the deceased and the 1st accused were engaged in argument while drinking alcohol at a bar.
4. In mitigation the 1st accused person, through his advocate Mr. Moseti pleaded for leniency while blaming his actions on drunkenness. He pleaded for a non-custodial sentence to enable him fend for his wife and 3 young children.
5. The Probation Officer's pre-sentencing report filed on 23rd September 2015 was favourable to a non-custodial sentence.
6. After due consideration of all the facts stated hereinabove, and further taking into account the fact that the 1st accused is a first offender and he has been in custody for 2 years awaiting his trial, I find him suitable for a non-custodial sentence.
7. I hereby sentence him to 2 years probation during which time he will be supervised by the Probation Officer of his area.

Dated, signed and delivered in open court this 17th day of November, 2015

HON. W. OKWANY

JUDGE

In the presence of:

- Mr. Mbelete for the State
- M/S Ondari for the Accused
- Mr. Ogega: court clerk