



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO 145 OF 2012**

**REPUBLIC .....PROSECUTOR**

**=VERSUS=**

**BENARD NJOGA ASMENYA .....ACCUSED**

**SENTENCING**

The accused person, Benard Njoga Amenity pleaded to the less offence of manslaughter contrary to **s.202 as read with 205 of the penal code** through the process of plea bargaining on 16/07/2015

The particular are on the 7<sup>th</sup> June 2012 at Endiba village in Kiabonyoru Location in Nyamira County, unlawfully caused the death of James Amenity Kinanga.

The court called for probation report which we filed in Court on 15<sup>th</sup> July 2015. In the said report, accused is aged 25years he is married but separated but has two children, aged between 12 and 4 years respectively.

He is social and has strong ties with the local community.

The victim's family is willing to forgive the accused saying the incident was accidental. They even describe him as a responsible person who is hard working. They are ready to welcome him and accord him much needed support.

His own family expressed a positive attitude towards the accused person

They blame his action that he neglected them for a long time and also the fact that he used to take proceeds from their land to other family without caring his own.

The local community, perceives him positively. They claim the incident was sudden and they were taken by surprise. They describe him as a humble and responsible person without any other trace of criminal tendencies. The local administrator shared the same sentiments as the community members and offered to closely monitor him for positive change as well as to assist in the resettlement and reintegration process.

Accordingly, this court takes into account that he has been in custody for now three (3) years.

The court will therefore sentence the accused to two years non-custodial sentence to be supervised by the probation officer of the area.

It so ordered

**Dated and delivered at Nyamira this 13<sup>th</sup> day of November, 2015.**

**C. B. NAGILLAH**

**JUDGE**

**In the presence of:-**

Malesi for the State

Sagwe (Nyamwange) hold brief for Sagwe for the Accused person

Mercy- Court Clerk