

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 30 OF 2012

REPUBLICPROSECUTOR

VERSUS

VINCENT KIPKORIR TANUI..... ACCUSED

SENTENCE

The accused herein **Vincent Kipkorir Tanui**, was initially arraigned before this court to face a charge of Murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars of the offence are that on the 6th day of July, 2012 at about 11.50p.m at Kapsisywa village of Kiptome location in Kericho West District within Rift Valley Province, the accused is alleged to have murdered **Geoffrey Kipyegon Tanui**. Pursuant to the plea agreement dated 27th February, 2014, the accused pleaded guilty to the lesser offence of Manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code** and was thereafter convicted.

Before pronouncing the order on sentence, this court called for the Probation Officer's report after taking the accused's submissions in mitigation. **Mr. Lopokoiyit** learned Prosecution Counsel, informed this court that he did not have the accused's past criminal record and asked this court to treat him as a first offender. However, the Probation Officer indicates that the accused is not a first offender. It is said he was convicted vide Kericho C.M.Cr. C.No. 1459 of 2008 for the offence of abduction and served three(3) years Probation. Mr. Orina, learned advocate for the accused urged this court to pronounce a non-custodial sentence because the accused is remorseful and regrets having committed the offence which led to the death of his brother. This assertion is controverted by the Probation Officer who stated the accused is not remorseful. The source of the Probation report is stated to be the accused, family member of the deceased and the accused, neighbours and the area assistant chief. It submitted that the community, village elders, neighbours, the local administration and the family members from both sides are hostile and will not welcome any non-custodial sentence. The Probation Officer recommended for a custodial sentence.

After a careful consideration of the relevant factors, I am convinced that the appropriate sentence in the circumstances should be custodial. The home environment appear to be very hostile and the accused may not be warmly welcomed if given a non-custodial sentence. The postmortem report indicates that the accused executed his heinous act in a savage and vicious manner. The accused may have actually intended to cause grievous harm or death of the deceased. The probation and the Postmortem reports indicates that the deceased was stabbed more than eight times on the chest and stomach. The deceased even suffered a fractured rib No. 4 on the left side of the chest. I hereby sentence the accused to serve ten(10) years imprisonment.

Dated, signed and delivered in open court this 20th day of March, 2014.

J.K. SERGON

JUDGE

In the presence of

Mr. Lopokoiyit for Director of Public Prosecutions

Ongany holding brief for Mr. Orina for Accused