

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.105 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

CAROLYNE KWAMBOKA MANDI.....ACCUSED

SENTENCING

The accused, **Carolyn Kwamboka Mandi** was initially charged with the murder of **Wycliffe Munyore Shivanda** contrary to section 203 as read with section 204 of the Penal Code. Before her trial commenced however, she entered into a plea agreement with the office of the Director of Public Prosecution wherein the State reduced the charge to one of manslaughter. The plea agreement between the parties was filed in court on 30th September, 2013. The same was accepted by the court after satisfying itself on the mandatory requirements of Section 137 of the Criminal Procedure Code. The accused was subsequently charged with manslaughter contrary section 202 as read with section 205 of the Penal Code. She pleaded guilty and was convicted on her own guilty plea on 20th February 2014.

The brief facts of the case as stated in the plea agreement and as stated to the court by prosecuting counsel are that the accused and the deceased lived together as boyfriend and girlfriend in a one roomed house at Kongo area in Kawangware. On the 13th day of December at about 8.00pm, the deceased arrived home and found the accused packing her belongings ready to leave. The deceased attempted to stop the accused from leaving and a fight ensued between the two. The accused freed herself from the grip of the deceased and, in attempt to defend herself, the accused picked a kitchen knife and stabbed the deceased once on the left ear.

The accused ran out and as the deceased followed her, he fell at the doorstep. The accused also sustained scratches on the neck, thorax and abdomen during the fight as indicated in the P3 Form. The deceased was rushed to Mwananchi Medical Centre within Amboseli area where he was pronounced dead upon arrival. A postmortem conducted at the city mortuary on the body of the deceased disclosed the cause of death as head injury caused by sharp force trauma. The accused unequivocally accepted the facts as stated above and was convicted on her own guilty plea.

In mitigation, **Mr. Gomba** for the accused told the court that the accused was very remorseful for the crime. He informed the court that she was a mother of four young children who needed her attention. He added that the accused had been in custody for one year, and had no previous criminal record. Counsel prayed for leniency and asked the court to consider giving the accused a non-custodial sentence.

Before considering sentence, I called for and received a probation officer's report. I have considered the circumstances of the case as well as the probation report. The deceased lost his life in the hands of the accused who used fatal force in an attempt to free herself from a relationship gone sour. I have formed the opinion that the accused is not fit for a non-custodial sentence and may benefit from rehabilitation in the correctional facility. After taking into consideration the plea agreement and the time she has already spent in custody, I sentence her to serve three years imprisonment.

Orders accordingly.

Sentence delivered at Nairobi this 20th day of May, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk

.....: Accused

.....: For the accused

.....: For the State