



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

**CRIMINAL CASE NO. 19 OF 2011**

REPUBLIC.....PROSECUTOR

VERSUS

JOEL KIPKETER MALEL.....ACCUSED

**SENTENCE**

The accused person, **Joel Kipketer Malel**, is before this court to face a charge of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Pursuant to the plea agreement dated 16th July 2014, the accused instead pleaded guilty to the lesser charge of manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code**.

Upon convicting the accused person, this court invited the accused's learned advocate to submit on facts in Mitigation. Miss. Kivali, learned Prosecution Counsel urged this court to treat the accused as a first offender since she did not have the accused's past criminal record. Mr. Koko, learned advocate for the accused urged this court to be lenient to the accused and pronounce a non-custodial sentence since the accused is remorseful and regrets committing the offence which led to the death of his cousin. The accused further stated that the offence was committed while he was under the influence of alcohol. Mr. Koko further urged this court to consider the fact that the accused has been in custody for the last three years three months. This court was also told that the families of the offender and the victim have started the process of reconciliation. I have also considered the probation report filed by the Probation Officer, Sotik/Bureti/Konoin Districts. In the aforesaid report, it is indicated that the offence was committed while the accused was under the influence of alcohol and that he was provoked by the deceased who was also under the influence of alcohol. The report further confirms that the two families are ready to forgive each other and forge ahead to reconcile. I have also taken into account the fact that the accused has been in custody for three years three months. There is a strong recommendation that the accused should be given a non-custodial sentence. I am persuaded that the most appropriate sentence should be a non-custodial sentence. I hereby order that the accused be set free from custody and ordered to serve three years on probation under the supervision of the Probation Officer Sotik/Bureti/Konoin Districts.

**Dated, Signed and delivered in open court this 24th day of July, 2014.**

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**J.K.SERGON**

**JUDGE**

**In the presence of**

Miss. Kivali for Director of Public Prosecutions

Boyon holding brief for Mr. Koko for Accused