



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KERICHO**  
**CRIMINAL CASE NO.24 OF 2013**

**REPUBLIC** - **PROSECUTOR**

**VERSUS**

**WESLEY KIPRONO KIRUI** - **Accused**

**SENTENCE**

Wesley Kiprono Kirui, hereinafter referred to as the accused was initially arraigned before this court to face a charge of Murder contrary to Section 202 as read with Section 204 of the Penal Code. However, pursuant to the plea agreement dated 23<sup>rd</sup> June 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. The particulars of the offence are that on 6<sup>th</sup> June 2013, at Honbil Bar at Soymet Trading Centre within Bomet County, the accused killed Joseph Kipkurui Chepkwony. In order for this court to pronounce the appropriate sentence, the court invited the prosecution to give the accused's history of previous criminal record if any. This court further invited the accused's advocate to submit in mitigation and also called for the filing of a probation report. Miss. Kivali, learned prosecution counsel urged this court to treat the accused as a first offender, since she did not have the accused past criminal record.

On his part, Mr. Ong'anyi, learned advocate for the accused, urged this court to be lenient to the accused arguing that the accused was remorseful who committed the offence under the influence of alcohol. Mr. Ong'anyi further pointed out that the accused's father passed away long time ago leaving him under the care of his aging mother. In the probation report it is clearly indicated that the accused is the second born in a family of six siblings. Two of his sisters are married while one brother died in a grisly road accident in April this year. The accused is also married with two children. He used to provide his young family using proceeds from his employment as a casual labourer. It is said the accused's wife left the matrimonial home upon his incarceration. I have carefully considered all the relevant factors. It is not in dispute that the offence was committed inside Hornbill Bar after the deceased and the accused had taken some alcoholic drinks. It would appear the deceased stood up and started dancing in front of a T.V screen thus blocking the accused from viewing. The accused pushed the deceased and in the process he fell down and got injured. He fell down and became unconscious. It is apparent from the facts outlined by the prosecution that the accused did not intend to cause grievous harm nor kill the deceased. This court has also been told that the process of reconciliation and compensation under the Kipsigis Customs has started and will be expedited if the accused is given a non-custodial sentence. I am convinced that the most appropriate sentence should be non-custodial. I hereby order that the accused be released from custody to serve 3 years Probation under the supervision of the Probation Officer, Kericho County.

Dated, signed and delivered in open court this 24<sup>th</sup> day of July 2014.

J. K. SERGON

JUDGE

In the presence of:

- Miss. Kivali for Director of Public Prosecutions
- Mr. Ong'anyi for Accused