



**REPUBLIC OF KENYA**

**High Court at Nyeri**

**Criminal Case 2 of 2011**

**REPUBLIC.....PROSECUTOR**

**Versus**

**HENRY MURIGI WAITHAKA.....ACCUSED**

**SENTENCE**

1. HENRY MURIGI WAITHAKA was charged with the offence of murder which was later reduced to manslaughter on a plea agreement.
2. He pleaded guilty and was convicted on his own plea of guilty to the offense of manslaughter of his brother.
3. To enable the court pass sentence herein I ordered for probation report which has now been filed in which the same has suggested that the accused be placed in probation during which he shall be assisted in settle back into society.
4. Mr. S.K. Njuguna for the accused in mitigation has submitted that the deceased who was the brother of the accused had gone drinking together with the accused and they parted company with the same so as to go back to Nairobi where he was working only for the deceased to come back at night to pick a fight with the accused over a cigarette.
5. The deceased hit the accused with an iron bar and in self defence the accused hit him with a fatal blow. He submitted that the accused is a first offender.
6. I have taken into account the submission by Mr. Njuguna on behalf of the accused and the probation report. I have also taken into account the fact that the deceased was his brother and that he did not intend to kill the same.
7. I have also taken into account the fact that the accused has been in custody for almost two years. I would therefore sentence the accused person to a probation period two (2) years as the court is of the view that for the two years he has been in custody he has had time to reflect on his conduct and the next two (2) years will give him time to be rehabilitated into somebody.

Dated and delivered at Nyeri this 12th day of February 2013.

**J. WAKIAGA  
JUDGE**

The sentence is read in open court in the presence of  
Mr. Njuguna for the accused  
Miss Kitoto for the State

Accused present in court.

J. WAKIAGA  
JUDGE