

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 18 OF 2009

REPUBLIC.....PROSECUTOR

VERSUS

DANIEL SIGEI KIPKOECH.....ACCUSED

SENTENCE

DANIEL SIGEI KIPKOECH, the accused herein, 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**. Pursuant to the provision of **Section 137A-O** of the **Criminal Procedure Code**, a plea agreement was filed in which the accused, instead, pleaded guilty to a charge of manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code**. In essence the offence of murder was commuted to that of manslaughter.

The facts of the case as outlined by the prosecution are that on 17th February, 2009 at around 10.00am the accused visited his father's homestead at Lalwat Village in Bomet County. It is said that the accused asked Alexander Towett, his father (deceased) to give him his share of his land as his inheritance. The accused was rebuked by his father of being lazy. A quarrel between the duo erupted leading to a fight. The deceased picked a stick and attempted to hit the accused. The accused managed to grab the stick from his father which he used to hit back at his father on the head. The deceased fell down unconscious. The accused rushed the deceased to Longisa District Hospital for treatment but unfortunately the deceased passed away while undergoing treatment. Mr. Mutai, learned Senior Principal Prosecuting counsel, produced a postmortem report prepared by Dr. Akiruga which indicated that the deceased died as a result of closed head injury secondary to a blunt head trauma. The accused reported what had happened to Kapkimolwa Police Post. He was subsequently arrested and charged with the offence of murder which has now been commuted to that of manslaughter.

Upon approving the plea agreement, this court proceeded to convict the accused on his own plea of guilty. Before Sentencing, a probation report was requested. I have carefully considered the facts in mitigation. The accused is a first offender. He is aged 37 years and he is married with four children. Mr. Koske, learned advocate for the accused informed this court that the accused is remorseful and that he pleads for leniency. This court was urged to place the accused on a non-custodial sentence. I have also taken into account the fact that the accused has been in custody for the last four years.

The probation officer, Bomet County recommends that the accused be placed on probation. It is clear that the circumstances leading to the commission of the offence were never pre-planned but happened spontaneously. In my humble view, I think a custodial sentence will serve no useful purpose on the accused who is remorseful. The community and his family are ready to welcome him back to society to commence the process of customary cleansing, reconciliation and reintegration.

In the end, I order that the accused be released from custody to serve probation for two (2) years under the supervision of the Probation Officer, Bomet County.

Dated, Signed and delivered this 29th day of November, 2013.

J.K.SERGON

JUDGE

In open court in the presence of

In the absence of Mr. Koskei for the Accused

Miss.Muthee for the office of Director of Public Prosecution

Mr. Korir- court clerk