



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE 12 OF 2009**

**REPUBLIC**

**VERSUS**

**JAMES MUSAU KAKUI ..... ACCUSED**

**S E N T E N C E**

I have considered the circumstances of this case, the mitigating factors and the Probation Officer's report. The deceased was drunk. He was the aggressor. He beat up the employee of the accused for no apparent reason. The accused intervened and only used fists. It was unfortunate that the deceased fell and was hit by the pavement. Accused is a first offender. He is remorseful. The Probation Report recommends a non-custodial sentence. The accused has been in custody since 2009.

In my view, the period the accused has been in custody is enough punishment. I order that he be discharged and released, unless otherwise lawfully held.

Dated and delivered at Machakos this 12<sup>th</sup> day of **October** 2012.

**George Dulu**

**Judge**

**In presence of:-**

Mr Mukofu for State

Accused present in person

Mr Kimeu J.M

Mutinda -Court clerk