

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUSIA

Murder Case 10 of 2010

REPUBLICPROSECUTOR

VERSUS

CLEMENT CHEGE OTIENO ONJORO

alias JAMBO KENYA.....ACCUSED

SENTENCE

The accused beat this wife the deceased when he found her with a man in his own house. The deceased highly provoked him by asserting that the man had performed sexual duties which the accused should have performed. There is no clear evidence that the beating caused her death as the Doctor's evidence tends to show that the cause of death arose from intoxication rather than the physical injuries caused by the accused's beating.

I have carefully considered the circumstances of this case. I am not sure in my mind that this should be a case for imprisonment. The deceased's children who are of tender age need to be taken care of by the accused. While the beating of his wife was certainly illegal, it never brought about the death of the deceased. I am not sure therefore that I will be punishing the accused for the death of his wife or for the beating of his wife.

Taking into account all these factors, I have come to the conclusion that justice will be done by soon releasing the accused.

Furthermore I am not sure that the accused should have been charged with the offence of manslaughter at all.

Accused is sentenced to 30 days imprisonment. Order accordingly.

Dated and delivered at Busia this 14th day of July 2010.

D.A. ONYANCHA

J U D G E