



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
CRIMINAL CASE NO. 47 OF 2008

REPUBLIC PROSECUTOR

VERSUS

RICHARD KIPKOSGEI BARNOACCUSED

SENTENCE

The accused, **RICHARD KIPKOSKEI BARNO**, was convicted on 25th October, 2010 by this court on his own plea of guilty of the felony of manslaughter contrary to **Section 202** as read with **Section 205** of the Penal Code, **Chapter 63** of the laws of Kenya. Mr. Chelule, mitigated against sentence on his behalf. The particulars of the offence were that the accused ... “on the 14th day of November, 2008 at around 7.30p.m at Kamaruk village, Kipkelion District of the Rift Valley Province unlawfully caused the death of **STANLEY KIPKIMOI CHEPWONY** by cutting him with a sword”

The facts admitted by the accused as constituting the offence were that the deceased, **Stanley Kipkimoi Chepkwony**, went to the house of the accused in company of one **James Lelei** to look for change of one thousand shillings note. While there, the deceased and the accused started quarreling and a fight then ensued whereupon the accused picked a sword and cut the deceased on the left hand near the elbow. The deceased fell down and screamed for help. After realising what he had done, the accused fled. Members of the public who responded to the deceased’s screams found the deceased bleeding profusely. Due to lack of transport, the deceased was not ferried to hospital until 2a.m. He died as a result. Postmortem performed on the body of the deceased revealed that the deceased died due to severe bleeding. The accused was arrested thereafter.

What sentence is appropriate in these circumstances taking the mitigation into account? The facts in this case show that the deceased was the aggressor. He went to the homestead of the accused and picked a quarrel with the accused as a result of which a fight ensued. The deceased was not armed. If the deceased had not picked a sword and used it to cut the deceased as he did, the altercation would have probably ended with bruises and the parties would have gone home to continue with their lives. But the accused took a sword and used it on the deceased. Clearly, the accused behaved as a coward. Instead of repelling the deceased without inflicting on him severe harm likely to cause death, he used force that was totally unnecessary in the circumstances. There is no evidence that the accused was drunk. He had full control of his mental faculties. He was however, going about his life when the deceased intruded on him. The accused pleaded guilty and his counsel, Mr. Chelule, told the court that he is remorseful.

I have considered all these circumstances including the period of two years during which the accused has been in remand. The accused must pay for what he has done, namely, taking the life of another human

being. This is not a case where the offence was committed in circumstances in which it could be said that the accused was provoked to such an extent that he might be forgiven for reacting the way he did. Nor was the life of the accused in mortal danger. The accused definitely deserves a custodial sentence. In the light of these circumstances, I sentence the accused to 8 years imprisonment.

DATED at **KERICHO** this 23rd day of November, 2010

G.B.M. KARIUKI, SC

RESIDENT JUDGE

COUNSEL APPEARING

Mr. S.K. Chelule Advocate, instructed by Messrs Chelule & Co. Advocates appeared for the accused
Mr. Kiprop, State Counsel from the Attorney General's Chambers appeared for the State
Court Clerk – Mr. Koech