



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

Criminal Appeal 289 of 2001

GEOFFREY KUONGERA.....APPELLANT

V E R S U S

REPUBLIC.....RESPONDENT

**(Being an appeal against the original conviction and sentence in Maua Principal Magistrate's Court
Criminal Case No 1720 Of 1999**

By Hon. N. Kimani – P.M.)

J U D G M E N T

1. When the Appeal herein came for hearing, the Appellant stated that he was only appealing against the sentence imposed and had no complaint as regards his conviction. It is his right to do so and this judgment is limited to the sentence imposed.
2. I note the Appellant was charged in Maua SRM Court Criminal Case No. 1720/1999 and was on 13.8.2001 sentenced to serve 10 years in prison for the offence of manslaughter.
3. The circumstances of his case were that on 16.3.1999 he unlawfully killed M'Mariu Mworira, his father. I have read the proceedings and I note that the deceased and the Appellant had a domestic quarrel and the result was that the Appellant cut his father with a panga and the latter died the next day at 5.30 a.m.
4. The Appellant now says that the sentence was excessive that and he is also sickly and this court should exercise leniency.
5. **In Wanjema vs R [1971] EALR 493 at 494** it was held that;

“A sentence must in the end, depend upon the facts of its own particular case. An appellate court should not interfere with the discretion which a trial court has exercised as to sentence unless it is evident that it overlooked some material factors, took into account some immaterial factor, acted on wrong principle or the sentence is manifestly excessive in the circumstances of the case”:

6. Applying these lucid holding to this Appeal all that the Appellant has placed before this court is a plea for leniency and sympathy. That is not enough to prod this court to interfere with the discretion of the trial court and in any event, the circumstances of this case are that the Appellant should suffer the full sentence for his wanton, reckless and unlawful attack on his father which led to the death of the latter.
7. The Appeal on sentence is without merit and is dismissed. That being the case the entire Appeal stands dismissed.
8. Orders accordingly.

Dated, signed and delivered in open court at Meru this 2nd Day of August 2007

ISAAC LENAOLA

JUDGE

In presence of

Appellant Present

Mr. Muteti State Counsel for the State.

ISAAC LENAOLA

JUDGE.