

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA OF KISII

Criminal Appeal 25 of 2003

ARKSON MIREIRI OIRERE APPELLANT

VERSUS

REPUBLIC RESPONDENT

From original conviction and sentence of the CM's court at Kisii in criminal Misc. Application No. 1984 of 2002)

JUDGMENT:

Appellant was jailed for the offence of manslaughter contrary to s.202 as read with s.204 Penal Code in that on 6th July 2002 at Ekware Sub-Location in Central Kisii he unlawfully killed TERESIA NYABOKE OIRERE. He pleaded guilty to the charge and was jailed for 20 years by the Principal Magistrate Kisii. His appeal is against sentence only.

The appellant preferred three grounds of appeal. He relied on them totally. The state counsel Mr. Kemo conceded 20 years imprisonment was harsh.

I have considered the grounds of appeal. The appellant pleaded guilty. He was a first offender and in mitigation he said he had children and was drunk at the time.

Though he killed his own mother I concur with the State Counsel that 20 years were excessive in the circumstances. The trial magistrate did not state whether he had considered all the circumstances.

In the circumstances I allow the appeal. I set aside the sentence of 20 years imprisonment and substitute it with one of 8(eight) years imprisonment to run from the date he was convicted.

Dated 16th May 2006.

KABURU BAUNI

JUDGE

Cc – Mobisa

Mr. Kemo for Respondent

Appellant present