

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Criminal Case 35 of 2004

REPUBLIC.....PROSECUTOR

VERSUS

DAVID CHEPKWONY PULPUL:.....ACCUSED

JUDGEMENT

The Accused is charged with offence of manslaughter contrary to section 202 as read together with section 205. He has pleaded guilty to the charge as read to him.

The facts disclose that the deceased with others attacked the Accused and robbed him of Shs.8000/= while he was answering nature's call outside a bar. In the struggle that resulted the Accused stabbed the deceased with a pen knife on the thigh. The injury was serious. He was given first aid by a nurse and referred for further treatment to the Moi Teaching and Referral Hospital. His relatives did not take him to Hospital but instead took him home where he died a few days later.

It is clear that this was a case of self defence and the action against the deceased was justifiable in the circumstances. Of more significance, is that it appears that had the accused been taken to hospital immediately, his life may have been saved. He did not die immediately but three days later. It is probable that the immediate cause of death was not stab wound but by the consequences of the omission to have the deceased have medical care. All these have been considered.

I have also considered that the Accused has been in custody for 2 years pending the hearing of this case.

I do hereby convict the Accused of the charge of manslaughter as set out in the statement of offence and his plea of guilty.

He is hereby sentenced to serve imprisonment for a term of 2 years. The period that the Accused has been in remand shall be treated and deemed to be the service of the said sentence. As the Accused has served the sentence of 2 years to which he has been sentenced irrespective of the rights of remission (now past), it is hereby ordered that he be released and be at liberty unless otherwise lawfully held.

DATED AND DELIVERED AT ELDORET THIS 6TH DAY OF JULY, 2006

M. K. IBRAHIM

JUDGE