

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CRIMINAL CASE NO 41 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

JOHANNAH KIPLANGAT TEIBEI.....ACCUSED

JUDGEMENT ON SENTENCE

1. On 14/10/2019 I convicted the accused for the offence of manslaughter. The issue before me now is one of sentence.
2. Ms. Irene Nchoe, counsel for the accused applied for a probation officer's report as part of the pre-sentencing hearing. Mr. John Bett duly prepared his report and filed it in court. According to his report the accused is aged 44 years' old. He is married with seven (7) children.
3. His other findings are as follows. He has no criminal record. However, he is known to be creating disturbance at home while under the influence of alcohol.
4. The local governmental administration stated that they cannot guarantee his security. The victim's family who are his immediate neighbours are still bitter and are opposed to his release on a non-custodial sentence. The offender's family are planning to initiate a process of reconciliation.
5. The probation officer hesitated to recommend a non-custodial sentence and therefore decided to leave the matter to the court to decide.
6. In sentencing the accused, I have taken into account that the accused is a first offender and is married with seven children, who are now in the care of their mother.
7. Ms. Irene Nchoe urged the court to be lenient for the following reasons. First, the accused is very remorseful. Second, the accused was not the aggressor. Third, the accused has been in custody since 2017, which now translates to about three years. Fourth, the accused committed this offence under the influence of alcohol.
8. Ms. Nyaroita, prosecuting counsel submitted that a life of a 30 year's deceased has been lost and the family of the victim are still bitter, although the offence was committed in 2017. She also submitted that the accused used excessive force and that the planned reconciliation is an afterthought.
9. I find the following to be the aggravating factors. A life of a 30 year's deceased has been lost leaving behind a bitter family with dependents of the deceased.
10. The accused has been in custody since 2017, which now translates to about three years. The accused is very remorseful.
11. I have also taken into account the following mitigating factors. The accused is a first offender and is married with seven children, who are now in the care of their mother. The accused is very remorseful.
12. After taking into account both the aggravating and mitigating factors, I hereby sentence the accused to five years' imprisonment.

Judgement signed, dated and delivered in open court at Narok 21st day of January, 2020 in the presence of Ms. Irene Nchoe for the accused and Ms. Torosi for the state.

J. M. Bwonwong'a

Judge

21/1/2020