



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT SIAYA
CRIMINAL APPEAL NO. 65 OF 2018
(CORAM: HON. R.E. ABURILI - J)

MICHAEL OMONDI OWAGA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(An appeal against sentence from Judgment delivered on 8/11/2018 vide Siaya PM's Court

in Cr. Case 1078 of 2018 before Hon. T.M. Olando, SRM)

JUDGMENT OF THE COURT

1. The Appellant **Michael Omondi Owaga** was convicted of the offence of Manslaughter contrary to **Section 202 as read with Section 205 of the Penal Code**. This was on 8/11/2018 by Hon. T.M. Olando, SRM, Siaya. He was sentenced to serve 20 years imprisonment, after he pleaded guilty to the charge and facts as read out to him by the Prosecution.
2. A Probation Officer's Pre-sentencing Report was filed in court by Odumba O. David. It is dated 8.11.2018.
3. According to the Probation Report, the root cause of the problem was excessive consumption of alcohol. That the Appellant liked consuming alcohol and fighting other people. He is a tailor by profession. The community felt that he should serve some custodial sentence to enable him change as his drinking habits betray him. The Appellant is known to be a violent person under the influence of alcohol and that he even used to fight with his wife most of the time wherever he returned from the drinking spree.
4. I have considered the appeal against sentence and the fact that the Appellant pleaded guilty to the charge. He appears remorseful. However, the sentence meted out was lawful, having regard to the violent conduct of the Appellant to others including his wife, wherever he is under the influence of alcohol. In my view, custodial sentence is appropriate for the Appellant to get rid of his drinking habit and fighting which led to loss of life. Life is sacrosanct. It must be protected. Live and let live.
5. Exercising judicial discretion, I hereby reduce the 20 year prison sentence imposed on the Appellant by the trial court and substitute it with a prison term of 5 years to be calculated from the date of his sentence on 8/11/2018

Orders accordingly.

Dated, signed and Delivered at Siaya, this 9th Day of July 2019.

R.E. ABURILI

JUDGE

In the Presence of:

Appellant (present in person)

Miss. Odumba, PC for State

Court Assistants: Brenda and Modestar