

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MAKUENI

HCCR NO. 57 OF 2017

REPUBLIC.....PROSECUTION

-VERSUS-

ALEX MUTUNGA MWANZIA.....ACCUSED

RULING ON SENTENCE

1. **Alex Mutunga Mwanzia** the accused, was initially charged with murder contrary to Section 203 as read with Section 204 Penal Code. After a plea bargaining agreement, the charge was reduced to manslaughter contrary to Section 202 as read with Section 205 Penal code. The facts being that the accused on **2nd December 2015**, at Makutano in Nguu, Nzau district within Makueni county killed **Winnie Mwende**.
2. The accused and deceased lived together as husband and wife. It is clear from the facts that the accused had no intention of killing the deceased. This was a very unfortunate incident.
3. After mitigation, this court called for a pre-sentence report which was filed on **4th September, 2019**. The report is so detailed and reports on a meeting between the families of the accused and the deceased. There is an issue born to the accused and deceased called **Kezia Mutheu** aged six (6) years old.
4. The County Probation Officer has confirmed in his report that during his social inquiry he was not given any negative report by the family or administration.
5. The accused is aged less than thirty (30) years. From the report, I find the accused requires time to reconstruct his life, and also fend for their child. He was in prison custody from December, 2015 to 14th September 2017 when he was released on bond.
6. I am satisfied that he is a fit candidate to be considered for a non-custodial sentence which I hereby do.

Order:

- The accused will be released on probation for **three (3) years**, under the supervision of the Makueni County Probation Officer.
- The conditions of a probation order are fully explained to the accused person.

Orders accordingly.

DELIVERED, SIGNED & DATED THIS 17TH DAY OF SEPTEMBER 2019, IN OPEN COURT AT MAKUENI.

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H. I. ONG'UDI

JUDGE