

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HCCR NO. 24 OF 2018

REPUBLIC.....PROSECUTION

VERSUS

WAMBUA MBUVA NGULIACCUSED

RULING ON SENTENCE

1. The accused was the deceased's younger brother. They quarreled and fought over a boundary dispute. This was on 2nd November, 2018. Accused was initially charged with murder contrary to section 203 as read with section 204 of the Penal Code which was later reduced to manslaughter contrary to section 202 as read with section 205 of the Penal Code, after a plea bargain agreement was entered into.
2. He was convicted of the lesser charge on 30th September, 2019. Mr. Kioko for the accused presented his mitigation to the court saying the accused is a young man aged 30 years and married with one child.
3. The court called for a pre-sentencing report which was filed on 24th October 2019. The report is a detailed one and shows the wide range of people who were interviewed. It further reveals that the family has sat and discussed the accused's case and elected to forgive him. The family is ready and willing to have the accused back home so that he can establish himself. The report further confirms that the administration and the community have positive reports about the accused.
4. He has not been involved in any anti-social behavior and he co-existed well with the neighbours and others. The accused has been in custody for one year. The deceased was his elder brother with whom he lived peacefully. His surviving parent (mother) and other family members have indicated that the aggressor was the deceased and are therefore willing to have the accused back home. It is therefore a favourable report.
5. After considering all the circumstances of this case and the pre-sentencing report, I find the accused to be a suitable candidate for a non-custodial sentence.
6. I hereby place him on probation for three (3) years. He will be under the supervision of the county probation officer Makueni. Conditions attached to a probation order are explained to him.

Orders accordingly.

Delivered, signed & dated this 13th day of November 2019, in open court at Makueni.

Hon. H. I. Ong'udi

Judge