

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO 16 OF 2015

LESIIT J

REPUBLIC.....PROSECUTOR

VERSUS

KENNEDY OCHIENG MIRUKAACCUSED

RULING ON SENTENCE

1. The accused had been charged with murder contrary to **section 203** as read with **section 204** of the **Penal Code Cap 63 Laws of Kenya**.
2. On the 4th day of April, 2017 the state and the accused recorded a plea agreement where the accused pleaded guilty to the lesser offence of manslaughter contrary to **section 202** as read with **section 205** of the **Penal Code**. Under **section 205** of the **Penal Code** a person convicted of manslaughter is liable to imprisonment for life.
3. I have considered the circumstances of the case. That the accused and deceased were cousins who lived together. I have considered that the accused hit the deceased on the head after the latter declined to accept accused offer to buy him beer. I also considered that the deceased declined to be taken to hospital and in the night he succumbed to injuries sustained. I have considered that the accused took himself to the police where he reported the matter. I considered also that at the time of this incident the accused was drunk.
4. I have considered that the accused was treated as a first offender by the prosecution.
5. I have considered the mitigation given by Mr Olando the defence counsel on behalf of the accused which is:
 - a) that the accused was a first time offender
 - b) the accused is 38 years of age and a father of two children and was the sole breadwinner
 - c) the accused was remorseful for the offence
 - d) The accused had undergone training while in prison and attained certificates which I have considered. They are commendable.
6. I have considered the accused has been in remand since 9th September, 2015 a period of 1 year and 6 months to date.
7. Having considered all this factors, I sentence the accused person to 8 years imprisonment from the date of his arraignment in court.

DATED, SIGNED AND DELIVERED THIS 6th DAY OF APRIL, 2017.

LESIT, J

JUDGE