



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO 3 OF 2015

LESIT J

REPUBLIC.....PROSECUTOR

VERSUS

JOHNSTONE AYORO ONDEGO.....ACCUSED

RULING ON SENTENCE

1. The accused was arraigned in court on 12th January 2015 with a charge of murder contrary to **section 203** of the **Penal Code**. After hearing the case the court convicted the accused of the reduced charge of manslaughter contrary to **section 202** of the **Penal Code**.
2. I have considered that the prosecution treated the accused as a first offender.
3. I have also considered the mitigation given by Mr. Ndungu on behalf of the accused:
 - a) That he is remorseful
 - b) That he has children who depend on him.
 - c) That he is a first offender.
 - d) That he seeks for leniency.
4. We do not have any victim impact statement in this case.
5. I have considered that the accused has been in custody for 2 years and 3 months during the pendency of this case.
6. I have considered the circumstances of this offence that the accused hit the deceased on the head with a club causing serious injuries. Even if the accused may have been infuriated by the deceased for throwing stones that anger leading him to hit the head of all places has caused a life. It was excessive force, and deceased being a child, the action accused did was not one which can pass as disciplining the child.
7. Having taken all these factors into account, I will sentence the accused person to 8 years imprisonment from date of arraignment in court.

8. Right of Appeal explained.

DATED, SIGNED AND DELIVERED THIS 5th DAY OF APRIL, 2017.

LESIIT, J

JUDGE