

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

CRIMINAL CASE NO. 20 OF 2015

REPUBLIC.....PROSECUTOR

Versus

BENARD MBUVI.....ACCUSED

SENTENCE

Benard Mbuvi Kasia you were initially charged with the offence of murder contrary to section 203 of the Penal Code. You pleaded not guilty to the charge on the allegations that on 20th June 2014 at Kisaju township Isinya you unlawfully killed Benson Kipere the prosecution called eleven witnesses in support of the charge.

At the conclusion of the trial this court made a finding that the offence proven was that of manslaughter contrary to section 202 of the Penal Code. That is the offence I set to pass sentence against you. During the sentencing hearings Mr. Akula stated that the offence is serious. It was also brought to attention of the court that you committed this offence while employed with the Kenya Government as a police officer. You had a duty to protect the deceased and not to cause harm.

Mr. Musyimi in a detailed submissions gave mitigation on your behalf. Mr. Musyimi touched on your personal life, family and circumstances leading to the present offence. Learned counsel also alluded to victim offender mediation initiated to make contact with the family of the deceased. One of the issue flagged was for you to offer some kind of 'pole' as stipulated under Maasai customary law and culture. The mediation however did not bear any fruits. I have also the victim impact statement by the father to the deceased. In his statement he looked up to this court for justice in enforcing the law.

In this case I consider the mitigation, and the report that you are a first offender. The pre-sentence report has also been taken into account. The disputed facts reveal that you worked as a police officer during the circumstances of this offence. You ought to have been more vigilant and conscious of your action as a member of the disciplined force. The charge I have found you guilty provides for a maximum sentence of life imprisonment.

As I embark on the appropriate penalty I take into account all the materials placed before me and the circumstances of this offence. The seriousness of the offence cannot be underscored. On my part in punishing you for the crime I sentence you to five (5) years imprisonment. 14 days right of appeal explained.

Dated, delivered and signed in open court at Kajiado on 15th day of May, 2017.

.....

R. NYAKUNDI

JUDGE

Representation:

Mr. Musyimi for accused present

Mr. Naikuni for the family present

Mr. Akula for Director of Public Prosecutions present

Mr. Leonard Court Assistant

Accused present