



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**

**CRIMINAL CASE NO.72 OF 2014**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**VICTOR KERANDI ONYONI .....ACCUSED**

**SENTENCE**

1. The accused herein VICTOR KERANDI ONYONI was charged with the offence of **Murder contrary to Section 203** as read with **Section 204 of the Penal Code**.
2. By a plea bargain agreement dated 20<sup>th</sup> January 2016 entered into between the accused and the state, the said charge of murder was reduced to manslaughter whereupon the accused pleaded guilty to the said charge and was subsequently convicted for the lesser charge of manslaughter.
3. The particulars of the charge are that on the night of 18<sup>th</sup> June, 2014 at Nyamatira village in Nyamache sub-county, the accused unlawfully caused the death of **THOMAS OMWAGA KERANDI**.
4. The facts of the case, as narrated to the court by Miss Mochama, counsel for the state, were that on 18<sup>th</sup> June, 2014, the deceased went to the funeral of his mother in – law but did not return home only for his body to be recovered the following day with deep cut wounds on the neck.
5. It later turned out that prior to the day of his death, the deceased had gone on a drinking spree with the accused. A search conducted at the accused’s home revealed that the clothes that the accused wore on the day the deceased disappeared had blood stains suspected to the deceased’s blood.
6. A post mortem examination carried out on the body of the deceased established that the cause of death was cardio-pulmonary arrest secondary to massive external hemorrhage due to a stab wound on the neck.
7. In mitigation, Mr. Kaburi advocate for the accused attributed the accused’s violent actions to the influence of alcohol. Mr. Kaburi submitted that the accused was remorseful, had quit taking alcohol and undertaken to be a law abiding citizen. Mr. Kaburi added that the accused was a young man aged 30 years with a young family comprising a wife and 3 children who all depended on him for their upkeep.
8. The Probation Officer’s pre-sentencing and victim impact assessment report filed on 20<sup>th</sup> March, 2016 favoured the release of the accused on a non-custodial sentence since both his family members and the family of the deceased had forgiven him and were ready to receive him back home. The Probation Officer also observed that the accused who was a first offender, had shown deep remorse while stating

that his violent actions that led to the accidental death of the deceased were actuated by the influence of alcohol.

9. I have considered the very disturbing yet unclear circumstances that led to the death of the deceased, the mitigation tendered by the accused's advocate and the Probation Officer's report. I also note that the deceased and accused were uncle and nephew respectively.

10. The post mortem form/report produced by the prosecution as PExhibit 1 in this case reveals that the two were engaged in a fight that turned tragic. The said report further states that the deceased had 3 stab wounds on the neck.

11. I note that the violent actions of the accused led to the death of his own uncle who was at the time of his death reported to be aged 38 years. The accused has been in custody for about 2 years while awaiting his trial. I am certain that he has learnt a lesson or two about how to keep peace with his neighbours and relatives during his 2 year stint in custody.

12. Consequently I hereby sentence the accused to 3 years non-custodial sentence during which period he will be under the supervision of the Probation Officer of his area.

**Dated, signed and delivered in open court this 11<sup>th</sup> day of May 2016**

**HON. W. A. OKWANY**

**JUDGE**

**In the presence of:**

- Miss. Mbelete for the State
- Mr. Kaburi for the Accuseds
- Omwoyo court clerk