



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT KISII**

**CRIMINAL CASE NO. 43 OF 2014**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**WATSON NYAKWANA MOMANYI.....ACCUSED**

**SENTENCE**

1. The accused, **WATSON NYAKWANA**, was initially charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code** which was by a plea bargain agreement dated on 12<sup>th</sup> May, 2016 reduced to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code**. The particulars of the charge are that on 5<sup>th</sup> April, 2014 at Bomwangi Sub-location in Kisii Central District within Kisii County unlawfully caused the death of **CHARLES MOMANYI MBECHE**.
2. The Accused pleaded guilty to the said lesser charge of manslaughter and was consequently convicted on his own plea of guilty.
3. The facts of the case were that on 5<sup>th</sup> April, 2014 the deceased and the accused, who were father and son respectively, engaged in a physical confrontation after the deceased accused the accused of having stolen his money. The accused hit the deceased on the head with a piece of wood after which the deceased fell down. While on the ground the accused continued to kick the deceased severally after which he poured water from a kettle on him before leaving him in the house. The deceased vomited blood and cried for help and was assisted to his bed. The following morning it was discovered that the deceased had died.
4. A postmortem examination of the deceased's body revealed that he died as a result of cardio-pulmonary arrest secondary to haemorrhage due to blunt trauma.
5. In mitigation, Mr. Kaburi submitted that the accused was a young man aged 27 years and was married with 2 children. Mr. Kaburi stated that the accused acted out of a fit of anger on being falsely accused of stealing money. He further submitted that the accused had reformed during his stay in custody and had learnt to tame his anger and temperament.
6. The probation Officer's report filed on 30<sup>th</sup> May, 2016 favoured a non-custodial sentence for the accused while stating that the accused had reformed and quit taking alcohol.
7. I have given due consideration to the circumstances surrounding the offence, the mitigation tendered by

the defence and the Probation Officer's report on sentencing. I note that the accused killed his own father in a very cruel manner and this can be attributed to a total breakdown of family values.

8. I do not agree with the Probation Officer's recommendation that the accused be given a non-custodial sentence as the accused and others with similar behavior need to know that there is always a very heavy price to pay for crime. The accused clobbered his father to the ground and continued to kick him and pour water on him when he lay helpless and in pain. I find that the accused showed no mercy to his own father and should not expect to receive the sympathy of this court.

9. It is in this regard that I hereby sentence the accused to 7 years imprisonment. The prison term shall run with effect from the date of the accused's first appearance in court.

Delivered, dated and signed in at Kisii on **2<sup>nd</sup>** of **June**, 2016.

**W.A. OKWANY**

**JUDGE**

**In the presence of:**

- Mbelete for the State
- Mr. Kaburi for the Accused
- Omwoyo court clerk