

REPUBLIC OF KENYA

IN THE HIGH COURT AT HOMA BAY

CRIMINAL CASE NO. 13 OF 2013

BETWEEN

REPUBLIC.....PROSECUTOR

AND

DAVID OKIKI OUSO.....ACCUSED

SENTENCE

DAVID OKIKI OUSO was originally charged with the murder of his father, **SAMUEL OUSO JABUYA** on 20th December 2011 at South Kamenya, Kanyaluo location, Rachuonyo North District, Homa Bay County. He has now pleaded guilty to the lesser offence of manslaughter as a result of a plea bargain. The court had the advantage of hearing two witnesses. The brief facts are that on the material day, the deceased and his wife had an argument whereupon he decided to intervene. He threatened his father but as a result there was an altercation which resulted in the father exposing his private part to the accused. The two fought and as a result the deceased died after being hit on the head.

PW2, Tom Mboya Aros, the chief from the nearby sub-location testified that there had been misunderstandings in the family and that there were disputes all the time. Taking into account these circumstances and the mitigation proffered on the accused's behalf. I consider that the time served by the accused is sufficient as he has been in custody since 2011. The act was not intentional and indeed the accused, who is middle aged, would be better placed to take care of his mother and children.

I therefore sentence him to time served. He is set free unless otherwise lawfully held.

DATED and DELIVERED at HOMA BAY this 7th day of July 2015.

D.S MAJANJA

JUDGE

Ms Andabwa, Prosecuting Counsel, instructed by the Director of Public Prosecutions for the State.

Mr Nyauke instructed by Nyauke and Company Advocates for the Accused.