

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.44 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

ROBERT KIPKIRUI NGENO.....ACCUSED

SENTENCE

Robert Kipkirui Ngeno, the accused person herein, was initially arraigned before this court to stand trial for the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on the 2nd day of September 2013, at Minjililiet village of Ndaraweta sub-location in Bomet County, the accused jointly with another not before court murdered Geoffrey Chepkwony. Before the case was set down for trial, learned counsels from both sides commenced negotiations which led to the execution of the plea agreement dated 19th March 2014 in which the accused pleaded guilty to the lesser charge of manslaughter contrary to the provisions of Section 202 as read with Section 205 of the Penal Code.

This court approved and accepted the plea agreement and proceeded to convict the accused for the offence of manslaughter. Before sentencing, this court invited Mr. Lopokoityit, the learned Prosecution Counsel to give this court the accused's past criminal record. Mr. Lopokoityit urged this court to treat the accused as a first offender because the prosecution had no past criminal history of the accused. Mr. Nyaingiri, learned advocate for the accused, when called upon to submit facts in mitigation on behalf of the accused, beseeched this court to be lenient by pronouncing a non-custodial sentence. He stated that the accused was remorseful and regrets committing the offence. Mr. Nyaingiri further urged this court to take into account the fact that the accused has been in custody since 2nd September 2013. I have also considered the Probation report on the accused filed by the Probation Officer, Bomet County. In the aforesaid report it is indicated that the accused is of violent behaviour when under the influence of alcohol. It is said that the home environment is not conducive for his rehabilitation since the accused lacks parental support. The report further indicates that the home environment is hostile to the accused and that the affected families have not taken steps to reconcile. The victim's family are said to be bitter and would not support any order giving the accused non-custodial sentence. A critical part of the probation is that the offender's family has not been co-operative to pursue measures that would expedite the accused's reintegration to the society. For the above reasons the Probation Officer recommended for a custodial sentence.

After considering the submissions from both learned counsels and Probation report, I am convinced that this is a case fit for a custodial sentence. The home environment is not conducive nor receptive to the accused. A keen examination of the post-mortem report shows that the deceased suffered multiple cut wounds. The manner in which the accused executed his heinous act is savage and barbaric. From the injuries inflicted, the assailant appears to have intended to slaughter the deceased like an animal destined for the butchery. Such acts cannot be excused nor condoned.

I hereby sentence the accused to serve 10 years imprisonment.

Dated, signed and delivered in open court at Kericho this 16th day of May 2014

J. K. SERGON

JUDGE

In the presence of:

Lopokoiyit for Director of Public Prosecution

Nyaingiri for Accused

Accused: present in person