



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KERICHO**  
**CRIMINAL CASE NO. 6 OF 2011**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**CHARLES KIPKEMOI..... ACCUSED**

**SENTENCE**

Charles Kipkemoi was initially tried on a charge of Murder contrary to Section 203 as read with Section 204 of the Penal Code. Pursuant to the plea agreement dated 19<sup>th</sup> February 2014, the accused instead pleaded guilty to the lesser charge of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.

Mr. Lopokoiyit, learned prosecution counsel, informed this court to treat the accused as a first offender since he had no past criminal records of the accused. Mr. Ong'anyi learned advocate for the accused beseeched this court to pronounce a non-custodial sentence because the accused was remorseful. Mr. Ong'anyi pointed out that the accused was a young man aged 23 years who did not intend to commit the offence. The Probation Officer, Bomet County presented a comprehensive report in which she recommended to this court to pronounce a non-custodial sentence. After a careful consideration of the submissions of learned counsels from both sides and probation report, it is clear that the offence was committed without intention of causing death. It is not clear from the facts outlined as to what provoked the fight between the accused and the deceased. This court can only infer that the duo were either under the influence of alcohol or that they fought over a love triangle. It is also apparent that the accused is aged 23 years and he is a first offender. The probation report shows that both the families of the victim and the offender are yet to begin the process of reconciliation and compensation. It would appear the victim's family are ready to forgive and reconcile if they are told the circumstances leading to the deceased's death. The accused has been in custody since 2011, that is about 4 years. He is remorseful. The home environment appears to be conducive and receptive. I think the appropriate sentence in the circumstances should be non-custodial. I hereby order that Charles Kipkemoi, the accused be set free from custody to serve Probation for 3 years under the supervision of the Probation Officer, Bomet County.

Dated, signed and delivered in open court at Kericho this 6<sup>th</sup> day of June 2014.

J. K. SERGON

JUDGE

In the presence of:

- Miss. Kivali for Director of Public Prosecution
- N/A for Ong'anyi for the accused
- Accused: present in person.