

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.17 OF 2013

REPUBLIC - PROSECUTOR

VERSUS

E K C - ACCUSED

SENTENCE

Pursuant to the plea agreement dated 24th June 2014 and approved by this court on 26th June 2014, E K C, the accused person herein, pleaded guilty to the offence of manslaughter contrary to Section 202 as read with Section 205 instead of undergoing a trial for the offence of murder. The particulars of the offence are that: on 11th April 2013 at [particulars withheld] village in Kericho West District within Kericho County he killed Philip Kiprop Marisin.

I have considered the facts in mitigation as outlined by Miss. Koech, learned advocate for the accused. Miss. Koech pointed out that the accused was a young boy aged 16 years at the time of committing the offence. The accused was said to undertake casual jobs when he was out of school to provide for his parents and siblings and to also buy basic necessities for himself. Miss. Koech beseeched this court to mete out a non-custodial sentence to enable the accused pursue his studies. The learned advocate further informed this court that the process of reconciliation, compensation and cleansing under the Kipsigis Traditions and Customs has begun and will be expedited if the accused is out of custody. There is evidence showing that the accused has been in custody for over 1 year while awaiting for his trial. The Probation report filed by the Probation Officer, Kericho County recommended for the accused to be sent to a Borstal institution since the home environment is still hostile hence the accused will not be easily re-integrated to society. The deceased had scored an "A" plain in his KCSE exam at [particulars withheld] High School and had secured himself an admission to study Law at the university. His life has now been cut short by the accused's heinous act. The Probation report further indicates that the community is not ready to accept the accused back to society. After a careful consideration of the facts outlined in mitigation and the Probation report, I am convinced that the appropriate sentence should be non-custodial. The accused being a child, his sentencing therefore, is guided by the provisions of Section 191 of the Children Act. Pursuant to the provisions of Section 191 (1) (g) of the Children Act the accused is hereby committed to Shikusa Borstal Institution for 3 years since the Probation Officer, Kericho County has confirmed the vacancy at the aforesaid Borstal Institution.

Dated, signed and delivered in open court this 4th day of July 2014.

J. K. SERGON

JUDGE

In the presence of:

- Mr. Nyaingiri holding brief for Ngeno for Accused
- Miss. Kivali for Director of Public Prosecution