



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

**Criminal Case 4 of 2007**

**REPUBLIC.....PROSECUTOR**

**V E R S U S**

**WYCLIFFE INYANZU.....ACCUSED**

**S E N T E N C E**

The accused, WYCLIFFE INYANZU, was convicted on his own plea of guilty of the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. The particulars of the offence were that,

***“on the night of 11<sup>th</sup> and 12<sup>th</sup> September 2006 at Gahumbwa village, Wodanga Location, in Vihiga District, of Western Province, the accused caused the death of DANIEL CHANGENA by unlawful act.”***

Manslaughter is a felony and carries a maximum of a life sentence.

The facts constituting the offence which were read to the accused in court and which the accused admitted were that the deceased was the father of the accused. Both the Accused and the deceased were very drunk at the material time. A quarrel ensued when the accused asked the deceased what he was doing in his house. As the aggressor, the deceased hit the accused with his walking stick. This gave rise to a fight which lasted over twenty minutes. It attracted the village elder, one TSIMANGI who separated the duo. The deceased had sustained severe injuries and he collapsed near the accused’s house as he tried to go to his house while the accused went to sleep. It was not until the following morning that the accused saw his father’s body near his house. He panicked and fled to a place called Lessos in Nandi District. He was nabbed on 23.11.2006 when he showed up at his home in Mudete.

The body of the deceased was discovered by the village elder at 7 a.m. on 12.11.2006. Police at Mbale Police Station were informed. They removed it and took it to Mbale District Hospital Mortuary. Postmortem was performed on the body on 18/9/2006 by Dr. Oyoko who opined that the deceased died due to cardiopulmonary arrest due to the injuries sustained in the fight and trauma. A postmortem report was produced as an exhibit to prove the cause of death. The accused was certified mentally fit to stand trial on 30.11.2006 at Vihiga District Hospital by Dr..... and a P3 Form in this regard was produced as an exhibit.

When called upon to mitigate against sentence, Mr. Kaburi, learned counsel for the accused, told the court that the deceased contributed to his own death as he had the weapon that caused his death with which he attacked the accused. He pleaded for leniency on account of this and submitted that the accused was a first offender who had pleaded guilty. He was sorry, said Mr. Kaburi, and had been in custody and had learnt from his mistake.

I have considered these mitigating factors and taken into account that the accused, a first offender, had pleaded guilty and was remorseful. I have also considered the fact that the offence was committed in circumstances in which the deceased and the accused were very drunk. I have also considered the fact that the deceased was the aggressor who used a weapon to start the fight that resulted in his death. The

offence was committed in circumstances in which both the accused and the deceased seemed to suffer from diminished responsibility as a result of which more force than was necessary was used in the fight that should not have ended so tragically. The deceased was the accused's father and the accused will forever suffer from guilt for having caused the death of his parent. That is a severe punishment. But for these mitigating factors, I would have been inclined to mete out a severe sentence, considering that manslaughter is a felony that carries a sentence of life imprisonment. Taking into account all these factors and the fact that the accused has been in custody, I sentence the accused to imprisonment for a period of one month.

*Dated at Kakamega this 1<sup>st</sup> day of November, 2007.*

**G. B. M. KARIUKI**

**J U D G E**