

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT MOMBASA

(Coram: Porter, Kneller & Hancox, JJ. A)

CRIMINAL APPEAL NO 37 OF 1983

BETWEEN

CHARLES WAMBUA ALIAS MUTIA..... APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a Sentence of the High Court of Kenya at Mombasa (Bhandari, J.) dated 3rd March, 1982 in

Criminal Appeal No 12 of 1983)

JUDGMENT OF THE COURT

Charles Wambua Mutia, the appellant, aged 23 was convicted on his own plea of manslaughter and sentenced by the High Court (Bhandari, J.) to 4 years imprisonment.

He unlawfully killed his friend Daniel Musyoka Mutia on April 28,1982 at Magongo in Mombasa by fracturing his head when he butted him.

They were playing a game of draughts and there was a dispute which led to a fight.

He was a first offender, and only son, a casual laborer and in remand for about a year before he was sentenced.

The learned judge took all these matters into account before he sentenced the appellant.

There was only one blow inflicted by the appellant, it is true, but he left his friend where he lay. His sister found him there later and he was dying.

The sentence was legal, appropriate and not manifestly excessive.

The appeal is dismissed.

Delivered at Mombasa this 20th day of July, 1983. K.D. PORTER

Judge of Appeal

A.A. KNELLER

Judge of Appeal

A R W HANCOX

JUDGE OF APPEAL