



REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAKURU
CORAM: TUNOI, GITHINJI & NYAMU, J.J.A.
CRIMINAL APPEAL NO. 161 OF 2008

BETWEEN

BENARD GIKONYO APPELLANT

AND

REPUBLICRESPONDENT

**(An appeal from the conviction & sentence of the High Court of Kenya at Nakuru (Kimaru, J)
dated 19th October, 2005**

in

HCCR.C NO. 98 OF 2005)

JUDGMENT OF THE COURT

BENARD GIKONYO, the appellant herein, was convicted on his own plea of guilty to manslaughter and sentenced to eight (8) years imprisonment by Kimaru J on 19th October, 2006.

The appellant submits before us in this appeal that the sentence imposed on him was harsh and excessive and pleads that it be reduced since he is the only child of his family.

On 28th October, 2005, at about 7.00pm the appellant and his mother, Veronicah Wangoi, were engaged in a quarrel with the deceased, Patrick Rutto, who was cohabiting with Veronicah. The cause of the quarrel was unknown save that the three had been engaged in a drinking spree.

In the course of the quarrel, the appellant took a big stone and hit the deceased on the head causing him grave injuries to which he succumbed soon thereafter.

Though the appellant is a young man (he was 20 years old on conviction), there is no basis for this Court to interfere with the discretion by the learned trial Judge as to the sentence since it has not been shown that in assessing the sentence the judge acted on some wrong principle or has imposed a sentence which was manifestly excessive.

In our view the sentence is well merited and is neither harsh nor manifestly excessive in the circumstances.

We reject this appeal and order that it be and is hereby dismissed.

Dated and delivered at Nakuru this 21st day of February, 2011.

P. K. TUNOI

JUDGE OF APPEAL

E. M. GITHINJI

JUDGE OF APPEAL

J. G. NYAMU

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR