



IN THE COURT OF APPEAL

AT ELDORET

CORAM: TUNOI, O'KUBASU & WAKI JJA

CRIMINAL APPEAL 201 OF 2004

BETWEEN

STANLEY KIPKOSGEI LELEI.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a judgment of the High Court of Kenya at Eldoret (Dulu, J) dated 22/9/2004

in

H.C.CR. C. NO 14 OF 2004

JUDGMENT OF THE COURT

The appellant, Stanley Kipkogei Lelei, was convicted on his own plea of guilty on a charge of manslaughter contrary to **section 202** as read with **section 205** of the Penal Code and sentenced to 10 years imprisonment. The particulars of the offence were that on 14th day of February 2004 at Ziwa Machine in Uasin Gishu District within Rift Valley Province the appellant unlawfully killed Joseph Martin Kimtai.

This appeal is against sentence only and the appellant is urging us to reduce the sentence of 10 years imprisonment. He says that he was drunk when he committed the offence and is asking for forgiveness.

The learned State Counsel Miss Oundo opposes the appeal on the ground that the sentence is not excessive in view of the circumstances under which the deceased met his death.

The facts as narrated before the superior, court and admitted by the appellant, indicate that the appellant was the aggressor who challenged the deceased (his uncle) to a fight. From the facts of the case this was uncalled for and unnecessary death as the appellant had no apparent reason for picking a quarrel with the deceased.

We have considered the facts of the case, the mitigating circumstances as narrated by the appellant and we are satisfied that the sentence was neither harsh nor excessive in the circumstances of the case.

It is our view that this appeal lacks merit. We order that it be dismissed.

Dated and delivered at Eldoret this 20th day of September, 2005

P. K. TUNOI

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JUDGE OF APPEAL

E. O. O’KUBASU

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JUDGE OF APPEAL

P. N. WAKI

.....

JUDGE OF APPEAL.

I certify that this is

A true copy of the original

DEPUTY REGISTRAR