



IN THE COURT OF APPEAL

AT ELDORET

CORAM: GICHERU, C.J., TUNOI, J.A & DEVERELL , AG.J.A

CRIMINAL APPEAL NO. 164 OF 2003

BETWEEN

CHRISTOPHER LOPEITE LOKAI.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a sentence of the High Court of Kenya at Kitale (Birech, C.A) dated 17/7/2003

in

H.C.CR.C. NO. 7 OF 2000

JUDGMENT OF THE COURT

The appellant was sentenced to 6 years imprisonment after pleading guilty to the offence of manslaughter contrary to **section 205** of the Penal Code on 17.7.03. He had been in custody for a period of 4 years and 7 months. Although the Commissioner of Assize while sentencing the appellant said that he had taken into account the period the appellant had been in custody, we do not think that he did so. Considering that the offence for which the appellant was convicted and sentenced was committed in circumstances of a drunken brawl we think that taking into account the period the appellant had been in custody, the sentence of six years imprisonment was harsh in the circumstances. We consider that a sentence of 4 years imprisonment would have been appropriate. In the result, we allow the appellant's appeal to the extent that his sentence of six years imprisonment is reduced to one of 4 years imprisonment. It is so ordered.

Dated and delivered at Eldoret this 28 th day of September,2004.

J.E. GICHERU

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CHIEF JUSTICE

P.K. TUNOI

.....

JUDGE OF APPEAL

W.S. DEVERELL

.....

AG. JUDGE OF APPEAL

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

DEPUTY REGISTRAR