



**REPULIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NYERI**  
**(CORAM: GICHERU, C.J. TUNOI & GITHINJI, JJ.A.)**  
**Criminal Appeal 81 of 2005**

**BETWEEN**

**JOHN NJERU KATHENYA ..... APPELLANT**  
**AND**  
**REPUBLIC ..... RESPONDENT**

**(Appeal from a sentence of the High Court of Kenya at Meru  
(Aganyanya J) dated 20th March, 2000**

**in**  
**H.C.CR.C. NO. 4 OF 1996)**

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**JUDGMENT OF THE COURT**

The appellant **JOHN NJERU KATHENYA** was convicted on his own plea of guilty to manslaughter contrary to section 205 of the Penal Code and sentenced to ten (10) years imprisonment.

In this appeal, argued on his behalf by Mr. Macharia, the appellant submits that the learned trial Judge ought to have considered the mitigating factors given by him before imposing the sentence which he alleges is harsh and manifestly excessive. Some of the factors the learned Judge allegedly failed to consider are said to be the current illness of the appellant – peptic ulcers, among others.

We have considered the submissions made by Mr. Macharia. It is manifestly clear that the appellant committed a very serious offence, that is, the killing of a police officer in the execution of his duties. Though the appellant is now said to be remorseful and may be sickly, the fact remains that the sentence cannot be said to be manifestly excessive in view of the circumstances leading to the commission of the grave offence.

We think that there are no grounds to justify the reduction of the sentence imposed by the trial court. In the circumstances, this appeal fails and is accordingly dismissed.

**Dated and delivered at Nyeri this 1st day of November, 2005.**

**J. E. GICHERU**

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**CHIEF JUSTICE**

**P. K. TUNOI**

.....

**JUDGE OF APPEAL**

**E. M. GITHINJI**

.....

**JUDGE OF APPEAL**

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**DEPUTY REGISTRAR**



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