



Case Number:	Criminal Appeal 81 of 2005
Date Delivered:	01 Nov 2005
Case Class:	Criminal
Court:	Court of Appeal at Nyeri
Case Action:	-
Judge:	Johnson Evan Gicheru, Philip Kiptoo Tunoi, Erastus Mwaniki Githinji
Citation:	John Njeru Katheranya v Republic [2005] eKLR
Advocates:	Mr. Macharia for the Appellant
Case Summary:	Criminal law - manslaughter contrary to section 205 of the Penal Code - killing of a police officer in the execution of his duty - accused person convicted and sentenced to imprisonment for 10 years - appeal against sentence - whether the sentence was harsh and excessive - whether the trial court had failed to consider the appellant's mitigating factors, including his illness - whether there existed any grounds to justify the reduction of the sentence.
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-

Sum Awarded:

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REPUBLIC 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)

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

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JUDGE OF APPEAL

E. M. GITHINJI

.....

JUDGE OF APPEAL

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true copy of the original.

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