



Case Number:	Criminal Appeal 614 of 2010
Date Delivered:	20 Dec 2013
Case Class:	Criminal
Court:	Court of Appeal at Nairobi
Case Action:	Judgment
Judge:	David Kenani Maraga, William Ouko, Jamila Mohammed
Citation:	Peter Kiaka Kawisya v Republic [2013] eKLR
Advocates:	Kivihya for the State
Case Summary:	-
Court Division:	Criminal
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	40 OF 2006
Case Outcome:	Appeal Allowed
History County:	Machakos
Representation By Advocates:	One party or some parties represented
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: MARAGA, OUKO & J. MOHAMMED, JJ.A)

CRIMINAL APPEAL NO. 614 OF 2010

BETWEEN

PETER KIAKA KAWISYA.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a sentence of the High Court of Kenya at Machakos

(Sitati, J) dated 11th May 2007 in HCCRC. NO. 40 OF 2006)

JUDGMENT OF THE COURT

1. **PETER KIAKA KAWISYA**, the appellant, was, upon his plea of guilty to a charge of manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code** convicted and sentenced to fifteen years imprisonment. He has appealed to this court against that sentence which he has described in his memorandum of appeal as harsh and excessive.

At the hearing of the appeal, the appellant pleaded for the reduction of the sentence contending that he is remorseful and that the probation officer's report that he is a village fiend in his home area preying on drunkards and robbing them of their possessions is not true. In respect of the appeal, he said he had no reason to do any harm to the deceased leave alone kill him. At the material time he was very drunk and that he pushed the deceased out of drunkenness. He concluded that he is a widower with young children who have nobody to take care of them. This being an appeal against sentence only, Mr. Kivihya, the learned State Counsel, left the matter to us.

2. We have considered the matter. The appellant committed the offence in a state of drunkenness. He is a first offender and a widower with young children requiring his care and attention. That notwithstanding, however, we cannot overlook the fact that by his careless act, a life was lost.

3. Taking all these factors into account, we allow this appeal and reduce the appellant's sentence to eight (8) years imprisonment from the date of conviction.

DATED and delivered at Nairobi this 20th day of December, 2013.

D.K. MARAGA

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JUDGE OF APPEAL

W. OUKO

.....

JUDGE OF APPEAL

J. MOHAMMED

.....

JUDGE OF APPEAL

I certify that this is a true

copy of the original.

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