



REPUBLIC OF MALAWI

**IN THE HIGH COURT OF MALAWI
MZUZU DISTRICT REGISTRY-Sitting at Rumphi
CRIMINAL DIVISION
MURDER CASE NUMBER 99 OF 2018**

BETWEEN

THE REPUBLIC

VS

MC DONALD MHANGO

CORAM: Honourable Justice T.R. Ligowe

W. Nkosi/D. Malunda, Counsels for the State

C. Duke/C. Kamanga, Counsels for the Accused

F. Mwakhwawa Luwe, Official Interpreter

J.N. Chirwa, Court Reporter

Ligowe J,

SENTENCE

On 8th July 2020, this court convicted McDonald Mhango of the offence of manslaughter after a full trial. He had been admitting the charge but the court found his admission equivocal and entered a plea of not guilty.

The court found that he on or about 18th August 2014 at Kacheche Trading Centre in Rumphi District, had fought with Stuart Ngwira at Glasiyu Kayira's shop and the fight had been influenced by the convict's drunkenness. Glasiyu Kayira managed to stop the fight, but while Stuart was going back to his home, McDonald Mhango followed him and hacked him on the head with a whooping Knife (mphopo), as a result of which Stuart Ngwira died the next evening.

Mc Donald Mhango is 25 years old and is a first offender as such he deserves lenience. He is still of a young age, who sometimes commit offences out of youthful

adventure. But he used an offensive weapon, for which the State Counsel submitted that he deserves a custodial sentence of not more than 15 years.

Defence Counsel submitted that the court should consider that the deceased contributed to the misadventure because of the fight. I am unable to accept this argument because the victim was injured while going home after the fight had ended. It could as well have been proper in the circumstances to charge him with murder. When he followed his friend after the fight and hacked him in that manner with the mphopo, he surely must have intended to kill him.

Because he was charged with manslaughter and convicted of manslaughter, he will be sentenced as such bearing the aggravating factors and mitigating factors.

Defence Counsel proposed a sentence not exceeding eight years' imprisonment. Manslaughter is punishable with imprisonment for life.

In Republic vs. Peter Jumbe, Criminal Case No. 20 of 2012 (Principal Registry) (Unreported). Justice Michael Tembo followed the trend in sentencing for manslaughter where excessive force had been used. He considered Republic vs. Mathuso Criminal Case No. 27 of 2008 in which a sentence of 10 years' imprisonment was imposed on a 23 year old. In Republic vs. Tepeka, Criminal Case No. 29 of 2009, 14 years of imprisonment were imposed on a 23 year old for manslaughter involving a stabbing with a bicycle spoke. In Republic vs. Newille, Criminal Case No. 78 of 2008, 14 years were imposed for manslaughter involving a knife stabbing. Republic vs. Manyowa, Criminal Case No. 78 of 2010, 10 years were imposed for manslaughter involving stabbing. In Republic vs. Matola, Criminal Case No. 72 of 2008, 15 years were imposed in manslaughter involving stabbing and in Davison vs. Republic [1998] 1998 MLR 302 (SCA), 9 years were imposed for manslaughter involving stabbing with a knife.

In Republic vs. Mathuso, Republic vs. Tepeka and Republic vs. Newille, the offenders pleaded guilty.

Considering the trend in sentencing manslaughter cases, there would be no better way of dealing with a first offender for manslaughter as the present one than a custodial sentence.

I take note that the convict wished he had pleaded guilty but for the qualifications he gave in the process.

Yes he is a first offender and on the border line for the age that requires to face the full rigour of the law.

But looking at the manner he caused the death of the deceased, I hereby by sentence him to imprisonment for 12 years with effect from the date he was arrested.

Pronounced in open court this 18th day of September 2020.



T.R. Ligowe
JUDGE