



**Otieno v Republic (Miscellaneous Criminal Application E182 of 2024)
[2024] KEHC 11584 (KLR) (30 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11584 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E182 OF 2024
MS SHARIFF, J
SEPTEMBER 30, 2024**

BETWEEN

BENARD OLUOCH OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Benard Oluoch Otieno was charged of the offence of robbery with violence in Nyando SPM CR. Case No. 19 of 2014 and upon his conviction was sentenced to suffer death. His sentence was subsequently reduced to a term of 25 years on appeal in Kisumu HCRA no. 67 of 2017. He has now moved this court for resentencing on grounds that the reduced sentence is excessive.
2. The grounds for this application are incredible. The High Court as aforesaid reduced his sentence from death to 25 years. The court was magnanimous at best. In any event this court is functus officio and has no jurisdiction to reopen the matter on sentencing.
3. On the balance this application is but a gross abuse of the court process and is devoid of merit wherefore the same is dismissed on those grounds.

DATED, SIGNED AND DELIVERED THIS 30TH DAY OF SEPTEMBER, 2024

M. S. SHARIFF

JUDGE

