



**Oduor v Republic (Criminal Revision E1191 of 2024)
[2024] KEHC 13036 (KLR) (Crim) (28 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13036 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL REVISION E1191 OF 2024
K KIMONDO, J
OCTOBER 28, 2024**

BETWEEN

SAMUEL OTIENO ODUOR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant has not appeared on the platform. The substratum of this revision is the decision of the Supreme Court in *Francis Karioko Muruatetu & others v Republic*, Petitions 15 & 16 of 2015 that outlawed the mandatory nature of the death penalty and opened an avenue for resentencing in murder cases.
2. However, the Supreme Court has now clarified afresh in *Republic v Joshua Gichuki Mwangi & Others*, Petition 018 of 2023, that the Muratetu decision did not invalidate mandatory sentences or minimum sentences in the Penal Code or any other statute.
3. The applicant here was convicted of Robbery with Violence and sentenced to death. His first appeal to the High Court in Nairobi HCCRA No. 104 of 2015 was unsuccessful. Another application for resentencing before the lower court was equally dismissed.
4. There is accordingly no legal foundation for review or sentencing by the High Court. I also note in passing that his death sentence was commuted to life imprisonment by His Excellency the President in 2016.
5. The upshot is that the entire Notice of Motion dated 2/5/2024 is hereby dismissed and file closed. A copy of this ruling shall be supplied to the applicant.

It is so ordered.



DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF OCTOBER 2024.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of-

Ms. Awino for the Respondent instructed by the Office of the Director of Public Prosecutions.

Mr. E. Ombuna, Court Assistant.

