



**Gadnar v Republic (Miscellaneous Criminal Application
E108 of 2021) [2023] KEHC 2879 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2879 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E108 OF 2021**

**RE ABURILI, J
MARCH 24, 2023**

BETWEEN

EVANS NYANG’AU GADNAR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. I have perused this file alongside HCCR Misc Application No E019 of 2021 where the Applicant is the same Evans Nyang’au Gadnar. In the above mentioned case file, the Applicant herein sought for review of sentence and *vide* Judgment rendered on October 12, 2021, this court did dismiss the application for sentence review on account that no proceedings from the trial court had been filed.
2. The court also found that it could not review sentence which has already been reviewed by another Judge of competent concurrent jurisdiction *vide* an appeal in that the applicant had been sentenced to death for robbery with violence but on appeal, the sentence was reduced to fifteen (15) years imprisonment.
3. In this application, the Applicant/Convict is seeking for same orders claiming that he is rehabilitated and reformed and acquired vocational skills such as Grade I in Masonry which will help him earn a living and that he is remorseful and regrets the offence and promises to be a law abiding citizen.
4. The Applicant has also annexed a Record of Appeal in HCCRA No 191 of 2021 arising from Kisumu Chief Magistrate Criminal Case No 117 of 2021.
5. I have perused the proceedings in the lower court. The applicant terrorised and traumatised the complainant during the robbery. He is lucky that death sentence was substituted with fifteen (15) years imprisonment which is very lenient as the convict denied committing the offence throughout the trial and even on appeal, he put up a spirited fight over what he all along knew he had committed a heinous offence.



6. His death sentence having been substituted to fifteen (15) years imprisonment, I find no reason on ground to persuade me to reduce it further.
7. The convict to serve full sentence as reduced. He was also dishonest by denying that he had Misc No E019 of 2021 dismissed.
8. This application is hereby dismissed.
9. Signal/order to issue.
10. File closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 24TH DAY OF MARCH, 2023

R. E. ABURILI

JUDGE

