



**Karanja v Republic (Criminal Petition E012 of 2022)
[2023] KEHC 2998 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2998 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL PETITION E012 OF 2022
RE ABURILI, J
MARCH 24, 2023**

BETWEEN

BARI DAVID KARANJA PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. The Petitioner/Convict herein Bari David Karanja by his Petition filed on July 13, 2022 seeks from this court orders of Sentence Review in respect of HCCR No 38 of 2009 at Kisumu High Court and the grounds in support are that the mandatory death sentence imposed on March 24, 2016 is arbitrary and disproportionate; that the Petitioner's rights under Articles 27(1) (2) and 50(2) (p) of the Constitution was violated.
2. The Petition is supported by the affidavit sworn by the Petitioner deposing that the death sentence imposed was commuted to life imprisonment and that his appeal to the court of Appeal has taken a long time hence he had to file this petition.
3. That he has been in prison custody for thirteen (13) years, is reformed, rehabilitated and remorseful. That his rights were violated and he was not given a chance to mitigate. He has annexed warrant of committal to prison dated March 24, 2016.
4. The Petitioner filed his submissions which commence with a plea that this court considers the time spent in custody as stipulated in Section 333(2) of the Criminal Procedure Code that he was arrested when he was thirty (30) years old, he is a first offender, he was not on bond, ready to reconcile with the parties concerned and he has maintained discipline in prison.
5. That he has been of good character and trained and is a trustee in prison. He also sat for KCSE in prison at Naivasha and attained a D+ after sitting for his KCPE and attaining high grades of 1 A-, 3 A's and 1 B. He has filed other testimonials.



6. I have considered the Petition. The Convict has an appeal pending before the Court of Appeal. This court has no jurisdiction to review his sentence as imposed by the court of concurrent jurisdiction. This court can also not review sentence which is subject of an appeal.
7. Section 333(2) of the *Criminal Procedure Code* is also not applicable to the Petitioner as he is not serving a term sentence.
8. I find the Petition not merited. It is hereby dismissed.
9. Petitioner to be notified in prison by signal.
10. File closed.

Dated, Signed and Delivered at Kisumu this 24th Day of March, 2023

R. E. ABURILI

JUDGE

Page 2 of 2

