



Bisuche v Republic (Petition 3 of 2019) [2023] KEHC 3945 (KLR) (28 April 2023) (Ruling)

Neutral citation: [2023] KEHC 3945 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA**

PETITION 3 OF 2019

REA OUGO, J

APRIL 28, 2023

BETWEEN

JOSAM BUHURU BISUCHE PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. Josam Buhuru Bisuche in his Notice of Motion seeks that this court reviews his sentence. He was convicted of Robbery with Violence and sentenced to death in Criminal case NO 68 of 2009. He filed an appeal. His appeal was dismissed on July 17, 2012. He states that he appealed to the Court of Appeal at Eldoret and 10 years have lapsed since then.
2. In his submissions he seeks the courts mercy to be released. He has a detailed mitigation on his family, health and achievements whilst serving his sentence.
3. The application was opposed by the Respondent. It was submitted that this court lacks the jurisdiction to allow the application as the Petitioner's appeal was heard by a court of similar jurisdiction and his appeal dismissed.
4. I have considered the Petitioner's application. The applicant appeal was heard and determined by the High Court sitting in Bungoma. As correctly submitted this court lacks the jurisdiction to grant the orders being sought. The Supreme Court in the Muruatetu case on July 6, 2021 at paragraphs 11, 14 and 15 issued directions that the principles set out were applicable to murder cases only. The applicant only avenue is to appeal to the Court of Appeal. In this the applicant indicated that he has been waiting for his matter before the Court of Appeal for the last 10 years. Let him pursue his appeal. This application is dismissed.

DATED, SIGNED AND DELIVERED AT BUNGOMA THIS 28TH DAY APRIL 2023.

R.E OUGO



JUDGE

In the presence of:

Petitioner in person

Ms Omondi For the Respondent

Wilkister C/A

