



**Kimeu v Republic (Miscellaneous Criminal Application
E005 of 2023) [2023] KEHC 19308 (KLR) (29 June 2023) (Order)**

Neutral citation: [2023] KEHC 19308 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CRIMINAL APPLICATION E005 OF 2023**

A. ONG'INJO, J

JUNE 29, 2023

BETWEEN

CARLOS MULI KIMEU APPLICANT

AND

REPUBLIC RESPONDENT

ORDER

29/06/2023

Before Hon. Lady Justice A. Ong'injo J

Ogwel – Court Asst.

Mr. Ngiri – Court Prosecutor

ORDER

1. Applicant was charged with the offence of murder in Mombasa High Court CR. Case No. 12 of 2012 and was convicted and sentenced to serve 25 years imprisonment.
2. His appeal to the Court of Appeal was dismissed and conviction and sentence in CR. Appeal No. 67 of 2020 upheld for reasons that although penalty under Section 204 of the penal code is death penalty the trial Judge excused her discretion and opted to impose a determinate sentence in a well-reasoned ruling delivered on April 11, 2019 in which she considered the Probation Report and Submission on mitigation.
3. The Application pursuant to article 22(1) of *the Constitution* of Kenya does not therefore apply in the circumstances and cannot be adjudicated in this application. The prison authorities have a duty to accord Medical Health care to prisoners/inmates under their charge including those diagnosed with kidney infection.



4. The report in letter dated June 21, 2022 by Evans Agalo and the information in the Prisoners Progress Report is not sufficient to find that applicant should not serve his sentence.
5. Application dismissed.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 29TH DAY OF JUNE 2023.

HON. LADY JUSTICE A. ONG'INJO

JUDGE

