



REPUBLIC OF KENYA



KENYA LAW
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**Otieno v Republic (Criminal Petition 14 of 2020)
[2022] KEHC 14592 (KLR) (26 October 2022) (Ruling)**

Neutral citation: [2022] KEHC 14592 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL PETITION 14 OF 2020
RE ABURILI, J
OCTOBER 26, 2022**

BETWEEN

JAMES OMONDI OTIENO ALIAS ABDALLA PETITIONER

AND

REPUBLIC RESPONDENT

*(Petition for Resentencing in Kisumu CM's Cr. Case
No. 841 of 2006 in a Judgment delivered on 16.11.2007)*

RULING

1. This Petition was filed on 13/2/2020 and to date, despite the court granting the petitioner time to file copies of proceedings and judgment from the trial court for consideration of his petition for resentencing, none have been filed. Submissions alone and copy of warrant of commitment to prison cannot support a petition of this magnitude where the court must consider the circumstances under which the offence was committed even as it considers the mitigations and Plea for resentencing.
2. From the court record, I find that the then Judge handling this petition accorded the petitioner more than sufficient time. It is now close to 3 years since the Petition was filed.
3. Timelines for filing of the Judgment from the Court of Appeal were given on 14/4/2022 and to date, nothing has been filed before this court. The last time the Petitioner was directed to file copies of proceedings was on 27/4/2022 after he requested for 3 weeks. Again by 23/6/2022 he had not filed and up to date, he had not filed any proceeding.
4. This petition cannot pend in this court forever, creating unnecessary backlog for the court. I hereby dismiss this petition for resentencing for want of any substance and non-compliance with court directions and orders to file into court copies of court proceedings from the trial court and Court of Appeal.



5. I so order.

6. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 26TH DAY OF OCTOBER, 2022

R.E. ABURILI

JUDGE

