

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CRIMINAL PETITION NO 10 OF 2020

HUMPHREY WANYAMA.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. The petitioner (**HUMPHREY WANYAMA**) was convicted on a charge of robbery with violence contrary to **Section 296 (2)** of the **Penal Code** and sentenced to serve 30 years' imprisonment in Eldoret CMCRC No. 326 of 2010. The victim **VICTOR ODHIAMBO (a taxi operator)** was robbed of his car make **TOYOTA COROLLA**, phone, radio and cash, the total value being 192,200 by that appellant and others who were armed with knives. The robbers had posed as customers who wanted to engage taxi hire services.

2. He appealed against the conviction and sentence in **HCCrA No 158 of 2011** and the sentence was reduced on 24/09/2018 and substituted with a period of 15 years which was to run from the date of conviction.

3. He has now petitioned this court to revise the sentence and consider giving him a non-custodial sentence, saying he is remorseful and is fully rehabilitated. He has attached certificates showing the different skills including spiritual rehabilitation programmes he has acquired while in prison. A letter dated 28/05/2019 by the officer in charge of welfare at the Eldoret Main Prison describes the petitioner as hardworking, obedient, and with a high level of discipline.

4. In opposing the petition, Miss **Okok** on behalf of the DPP points out that after being sentenced in the lower court in 2 cases i.e. **326 of 2010 and 327 of 2010**, the appellant filed **HCCRA No 24 of 2012** which was dismissed in its entirety. He then filed **Eld CrAppeal No 49 of 2017** before the Court of Appeal, and the sentence was reduced to 20 years. He then filed **Misc CR Application No 180 of 2018**, seeking with the orders of the Court of Appeal. The Court of Appeal in **CACr No 49 of 2017** in setting aside the death sentence in **Eld CMCrC No 327 of 2010** ordered that the sentences were to run consecutively.

5. The petitioner does not dispute this chain of events. Much as I sympathize with his plights, this court cannot begin to revise what the superior court; directions and I need not delve more into the matter. The opposition to the petition is merited, and the petition be and is hereby dismissed.

VIRTUALLY-DELIVERED AND DATED THIS 17TH DAY OF MARCH 2021 AT ELDORET

H. A. OMONDI

JUDGE