



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISUMU**

**CRIMINAL PETITION NO. 44 OF 2020**

**LUCAS OTIENO ODAWA.....PETITIONER**

**-VERSUS-**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The Petitioner, **LUCAS OTIENO ODAWA**, has asked the Court to have him re-sentenced.

1. He told this court that at the time of his arrest, he was 30 years old. Therefore, at that time he was a young man with a promising future, as he still had a long life ahead of him.
2. As at the date when he lodged his petition in court, the Petitioner was 42 years old.
3. He described his life behind the prison walls as being miserable.
4. The Petitioner said that he had suffered a deterioration in terms of health, social and psychological status.
5. In the circumstances, he pleaded with the Court to grant him an opportunity to ship out from prison so that he could thereafter be in a position to shape his future which had been ruined by his long incarceration.
6. The Petitioner told the court that his family was ready to facilitate his rehabilitation and his resettlement.
7. However, the court noted that the Petitioner failed to provide any evidence which would enable the Court verify the alleged readiness of his family to facilitate his rehabilitation back into their lives.
8. Secondly, whereas the Petitioner told the court that he had undergone rehabilitation and reform, he failed to provide evidence to verify his said assertions. In the circumstances, the court had no basis upon which to ascertain whether or not the Petitioner had been rehabilitated.
9. It is definitely not enough for an inmate to feel that he was reformed or that he had undergone rehabilitation. In order for the court to make an informed and appropriate evaluation of the Petitioner's circumstances, it was incumbent upon the Petitioner to make available to the court, all the requisite material that would enable the court verify the Petitioner's assertion.
10. The court was unable to ascertain the alleged pleasant and exemplary personality of the Petitioner.
11. The court was also unable to verify the alleged conciliatory links between the Petitioner and the "concerned parties."
12. Furthermore, although the Petitioner had, (in his Petition) said that the High Court had enhanced the initial sentence of 20 Years imprisonment, to Life Imprisonment, he failed to produce anything to verify that position.
13. He only produced the Committal Warrant issued by the trial court at Nyando, which shows that he was to serve a maximum of 20 years imprisonment for the 3 offences of **Attempted Murder, Attempted Suicide and Arson**.
14. This is a court of record. The decisions I make are based on evidence and material which form part of the record of the proceedings which culminated in the sentences which the Petitioner sought to have reviewed.

15. It is the responsibility of the petition to provide all the requisite material, which would enable the court make an informed decision.

16. As the Petitioner failed to provide the requisite material, this court cannot grant the reliefs sought.

17. Therefore, the petition is dismissed.

**DATED, SIGNED and DELIVERED at KISUMU**

This 26<sup>th</sup> day of **May** 2021

**FRED A. OCHIENG**

**JUDGE**