



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISC.APPL NO.291 OF 2018

DONALD MAJIWA.....PETITIONER

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

1. This is a ruling on application for resentencing. The applicant was charged and convicted off the offence of **Robbery with Violence Contrary to Section 296 (2) of the Penal Code and Rape Contrary Section 140 of the Penal Code (repealed)**. He was sentenced together with two co-accused to **death for robbery with violence and 10 years imprisonment for rape**. The applicant has exhausted his right of appeal by filing appeal in both the High Court and Court of Appeal.

2. The Nakuru Prison in Charge wrote a recommendation later dated 4th October 2019 confirming that the applicant has exhausted his right of appeal and that by the time he was writing recommendation letter, he had served in prison for 17 years. He further stated that the applicant's conduct has changed and has fruitfully engaged in various trainings and attained grade one, two and three of carpentry and joinery. He attached certificates issued to the letter.

ANALYSIS AND DETERMINATION

3. From the contents of the letter by in charge prison, the applicant has reformed. He has attained trainings, which will enable him engage in gainful activities, which will benefit himself, family and the community.

4. Having served in prison for a period of 17 years and in view of trainings the applicant has obtained, it is unlikely that he will engage in any criminal activities again. He will be more useful to the country while out of prison than when in prison. He will contribute to the country instead of the country incurring expenses keeping him in prison.

5. My view is that the period he has already served in prison is sufficient.

6. FINAL ORDER

1. That the 18 years period the applicant has served in prison is sufficient.

2. Applicant is hereby discharged.

Ruling dated, signed and delivered at Nakuru this 20th day of February, 2020

.....

RACHEL NGETICH

JUDGE

IN THE PRESENCE OF:

Schola – Court Assistant

Rita for State

Accused in person