



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISII**

**CONST. PETITION NO.12 OF 2019**

**CHARLES ONDIEKI NYAMARI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING- RE-SENTENCING**

The applicant seeks re-sentencing following the Supreme Court that declared the death sentence unconstitutional.

I have considered the applicant's application. He was found guilty of robbery with violence and condemned to death. The facts are clear in the judgment the applicant and others not before court went on a spree of attacking and robbing the complainants and other persons they met.

I have considered that the prosecution have no objection to the applicant being reinstated this has made a positive mitigation and demonstrated the skill he has acquired whilst serving sentence.

Considering all the above and the gravity of the offence committed I set aside the death sentence and re-sentence the applicant **Charles Ondieki Nyamari** to 20 years from the date he was sentenced in the lower court. He has a right of appeal within 14 days. Sentence to run concurrently.

**Dated, signed and delivered at Kisii this 11<sup>th</sup> day of March 2020.**

R.E. OUGO

JUDGE

**In the presence of;**

Applicant Charles Ondieki Nyamari

Mr. Otieno Senior Prosecution Counsel office of the DPP

Ms. Rael Court Clerk