

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL PETITION NO. 42 OF 2018

JARED OTIENO ODINDO.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The petitioner herein had been convicted in Butere SRMCCRC No. 480 of 2008 of robbery with violence and was sentenced to death. His appeals to the High Court and the Court of Appeal, in Kakamega HCCRA No. 50 of 2010 and Kisumu CACRA No. 250 of 2012, were dismissed.

2. He has now come back to court asking for re-hearing with respect to sentencing. No doubt this was prompted by the recent developments in the Kenyan law with respect to mandatory sentences. The sentence prescribed in law for robbery with violence is mandatory death.

3. I called for the filing of a probation report to guide me in re-sentencing. I have read through report. It is not favourable. The community is said to be not ready to receive the petitioner. He had many criminal cases, and was a member of a dangerous gang that terrorized locals.

4. The record of the trial court indicates that during the commission of the offence, the subject of these proceedings, the victim was beaten so badly that he lost consciousness and was hospitalized for three and half months.

5. In view of the recent developments on mandatory sentences, I hereby review the sentence that was pronounced against the appellant by the trial court in Butere SRMCCRC No. 480 of 2008, the death penalty, and I do hereby substitute the said sentence with a sentence of thirty-five (35) years imprisonment. The said sentence shall reckon from the 19th February 2010.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20TH DAY OF DECEMBER, 2019

W. MUSYOKA

JUDGE