

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL PETITION NO. 8 OF 2018

NICHODEMUS OSORO MEDA.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The petitioner herein had been convicted in Kakamega CMCCRC No. 1023 of 2000 of robbery with violence and was sentenced to death. His appeals to the High Court and the Court of Appeal, in Kakamega HCCRA No. 40 of 2003 and Kisumu CACRA No. 455 of 2008, were dismissed.
2. He has now come back to court asking a re-hearing with respect to sentence. No doubt this was prompted by the recent developments in the Kenyan law with respect to mandatory sentences.
3. The sentence prescribed in law for robbery with violence is mandatory death. For that reason when the petitioner were convicted on 20th February 2003 they were not given an opportunity to mitigate, as such mitigation would have made no difference.
4. The probation office reports that the petitioner is deeply remorseful and regrets the time he has spent in jail. He is said to be hardworking and respectful. The record reflects that the petitioner committed several acts of violent robbery against several individuals. He and his accomplices were armed, and their victims were hurt and lost property. Law and order demands that society should be afforded safety from violent individuals who have no qualms to violently rob instead of working hard like their victims. That is why such individuals are kept away from society. I am told that the petitioner has learnt his lessons and reformed.
5. In view of the above, I hereby review the sentence that was pronounced against the petitioner by the trial court in Kakamega CMCCRC No. 1023 of 2000, the death penalty, and I do hereby substitute the said sentence with a sentence of twenty (20) years imprisonment. The said sentence shall reckon from the 20th February 2003.

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

W. MUSYOKA

JUDGE