



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

HCCRA NO.22 2006

JOHN MUIRURI GICHERU.....APPELLANT

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

1. This is a ruling on application for resentencing following an order issued by Court of Appeal on 21st March 2019. The Court of Appeal upon dismissing the appeal filed by the appellant herein directed that this matter be remitted to the high court to consider appellant's mitigation and award appropriate sentence.
2. On 9th December 2019, the appellant submitted mitigation through his Advocate **Ms. Njoroge**. She submitted that the appellant has been in custody since 27th June 2003 a period of 16 years now. She submitted that the appellant had been charged with four counts of robbery with violence and being in possession of firearm; that he convicted of three counts of robbery with violence and acquitted with two counts. She submitted that the ruling on the latest appeal was on 21st March 2019 where the Court of Appeal referred this matter to this court for resentencing of the appellant.
3. Counsel submitted that while in custody, the appellant has undertaken several courses which include carpentry for 3 which he obtained Grade II and has had Christian trainings. She submitted that the in-charge prison did recommendation for the appellant last year when he went for hearing of appeal which she has availed to this court.
4. Counsel for the appellant further submitted that the appellant has not had any bad record in prison and that he has a wife and a child who is now 22 years and that the appellant would like to be reunited with his family. She urged the court to consider Muruatetu case and consider period already served by the appellant as sufficient.
5. In response, **Ms. Wambui** for the state urged the court to look at the circumstances and the nature of the offence and in reference to the fact that the appellant has served 16 years, she urged the court to consider that the offence is serious while considering resentencing.
6. I have considered the appellant's submissions through his Advocate. I have also considered the nature of the offence the appellant was convicted of and the 16 year period he has served in prison.
7. There is no doubt that the 16 years prison period has given the appellant time to obtain trainings which will assist him to engage in activities that will sustain him and his family; he will not only be useful to his family but to the community around him.
8. In view of the appellant's good record in prison, and the fact that he is unlikely to be a burden but of benefit to the society, I am inclined to reduce sentence to 20 years imprisonment.

9. FINAL ORDER

1. **I hereby set aside sentence imposed against the appellant and sentence him to 20 years imprisonment.**
2. **Sentence to run from the time the appellant was sentenced by the trial court.**

Ruling dated, signed and delivered at Nakuru this 17th day of December, 2019.

.....

RACHEL NGETICH

JUDGE

IN THE PRESENCE OF:-

Schola/Jenifer - Court Assistants

M/s Njoroge for appellant

Kimwei for state