



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT MIGORI**

**CRIMINAL APPEAL NO. 36 OF 2014**

**(FORMERLY KISII HCCRA NO. 94 OF 2010)**

**BETWEEN**

**JOHN MOGESI WANGWI ..... PETITIONER**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an appeal from the original judgment, conviction and sentence of the Senior Resident Magistrate's Court at Migori, Hon. E. O. Awino in Migori Criminal Case No. 506 of 2004 dated 3<sup>rd</sup> May 2005)*

**JUDGMENT**

1. The appellant herein filed an appeal against a conviction and sentence for the offence of robbery with violence contrary to **section 296(2)** of the *Penal Code (Chapter 63 of the Laws of Kenya)*. The particulars were that on 20<sup>th</sup> April 2004 at Igena Sub-location in Kuria District, jointly with others not before the court he robbed Joseph Marwa Tigo of cash Kshs. 1,700/- and a pair of slippers valued at Kshs. 2,170 and at or immediately before or immediately after the time of such robbery wounded the said Joseph Marwa Tigo.

2. The appellant pleaded not guilty and after a trial, he was convicted and sentenced to death. On 6<sup>th</sup> May 2010, he lodged an appeal to the High Court at Kisii, *High Court Criminal Appeal No. 89 of 2010*. The appeal was heard and dismissed on 13<sup>th</sup> February 2013 by Sitati and Lagat-Korir JJ. He did not prefer a second appeal to the Court of Appeal.

3. At the time of filing the appeal, he also lodged another petition of appeal on 14<sup>th</sup> May 2010 against the same conviction and sentence. This court cannot entertain any further challenge to the subordinate court conviction and sentence once the appeal therefrom has been heard and determined. Since the court lacks jurisdiction to entertain this appeal, the only option is to strike it out.

4. The appeal is struck out.

**DATED and DELIVERED at MIGORI this 22<sup>nd</sup> day of July 2015.**

**D.S. MAJANJA**

**JUDGE**

Appellant in person.

Ms Owenga, Senior Prosecuting Counsel, instructed by the Office of the Director of Public Prosecutions for the respondent.