



**Irungu v Republic (Criminal Miscellaneous Application  
E065 of 2024) [2025] KEHC 1706 (KLR) (3 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1706 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
CRIMINAL MISCELLANEOUS APPLICATION E065 OF 2024**

**LN MUTENDE, J  
FEBRUARY 3, 2025**

**BETWEEN**

**PAUL KAMAU IRUNGU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Paul Kamau Irungu, the Applicant, was tried, found guilty and convicted for the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. Following the conviction, he was sentenced to serve thirty (30) years imprisonment by Karuiki J. On 2<sup>nd</sup> March, 2023.
2. Through an application dated 24<sup>th</sup> July, 2024, the Applicant approached this court seeking an order for consideration of time spent in custody. The application is premised on grounds that pursuant to Article 165(3) (b) of the Constitution, the court has jurisdiction to determine the application and award a lenient definite sentence as provided by Article 50(2)(b) of the Constitution.
3. This is a matter that was determined by the High Court which calls into play the principle of finality or *functus officio*. This court (High court) having finally exercised its authority in the case and determined the appeal following mitigation rendered before the trial court; it would have no jurisdiction to re-open the case with a view of determining the mitigation.
4. The doctrine of “*functus officio*” was clearly stated in Telcom Kenya Ltd v John Ochanda (2014) eKLR. The court delivered itself thus;  

“Functus officio is an enduring principle of law that prevents the re-opening of a matter before a court that rendered a final decision.”
5. The upshot of the above is that I have no power to grant orders sought. Accordingly, the application is dismissed.



6. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 3<sup>RD</sup> DAY OF FEBRUARY, 2025.**

**L.N. MUTENDE**

**JUDGE**

