



REPUBLIC OF KENYA



KENYA LAW
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**Otieno v Republic (Criminal Revision E017 of 2025)
[2025] KEHC 5608 (KLR) (17 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 5608 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL REVISION E017 OF 2025
CW MEOLI, J
MARCH 17, 2025**

BETWEEN

DUNCAN OPIYO OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

*(From Original Conviction and Sentence in Criminal, Case
No: 12 of 2018 of The Chief Magistrate’s Court At Kajiado)*

RULING

1. I have now perused the record in Kajiado HCCR Case No: 112/2018 and note that:
 - a. The present applicant was in the above case tried, convicted and sentenced (by Mwita J), on 13th March 2020, for the offence of Murder contrary to Section 203 as read with Section 204 of *Penal Code*.
 - b. Subsequently, via a memorandum of appeal dated 8th February 2021, the applicant sought to challenge his conviction and sentence in the Court of Appeal. It is not clear whether the said appeal has been heard.
2. The applicant has now moved the court by way of an application supported by his affidavit dated 14/02/2025. From the prayers in the application and depositions, the applicant is essentially seeking a resentence hearing and “mitigation of the sentence of 20 years imprisonment.” He deposes that he does not wish to pursue any appeal with regard to the initial trial.
3. Although the aforesaid trial was conducted before Nyakundi J. who also wrote the judgment therein, the applicant and his counsel appeared subsequently before Mwita J on 2/3/2021 and addressed the court in mitigation before the sentence was read on 13/03/2021. In its ruling on sentence, the court cited the jurisprudence in Francis Karioko Muruatetu & Others Vs. R (2017) eKLR. Consequently,



the applicant was sentenced to serve 20 years imprisonment. In the circumstances, this court has no jurisdiction to revisit the issue of sentence as now invited by the applicant to do.

4. The court declines jurisdiction and directs that the revision file be closed, and that a copy of this order be uploaded and placed in the court file in HCCR Case No: 12 of 2018.

DATED THIS 17TH DAY OF MARCH 2025.

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C. MEOLI

JUDGE

