



REPUBLIC OF KENYA



KENYA LAW
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**Owendo v Republic (Miscellaneous Application 14 of 2020)
[2025] KEHC 4263 (KLR) (Crim) (17 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4263 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
MISCELLANEOUS APPLICATION 14 OF 2020
CJ KENDAGOR, J
MARCH 17, 2025**

BETWEEN

BONIFACE LITUNYA OWENDO APPLICANT

AND

REPUBLIC RESPONDENT

*(Arising from decisions in Court of Appeal at Nairobi Criminal Appeal
No. 70 OF 2021, High Court at Nairobi Criminal Case No. 96 of 2010)*

RULING

1. The Applicant has filed the instant application seeking orders on resentencing. The application is supported by an affidavit by the applicant filed on 26th May, 2020.
2. The Applicant was charged, convicted and sentenced in High Court at Nairobi, Criminal Division Milimani Criminal Case No. 96 of 2010. The conviction was on the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The Particulars were that he murdered Mueni Syombua Munuve on 19th November, 2010 within Nairobi County. Upon conviction he was sentenced to death.
3. He lodged an appeal to the Court of Appeal in Nairobi, Criminal Appeal No. 70 of 2021 (*Owendo v Republic* [2023] KECA 718 (KLR)).
4. The Court of Appeal, in a judgment delivered on 9th June, 2023, dismissed the appeal against conviction, set aside the death sentence, and substituted it with a sentence of twenty-five (25) years to run from the date the Applicant was first presented in Court for plea.
5. The Court of Appeal's decision shows that significant attention was given to the evaluation of the sentence in this case, substituting the death penalty with the defined term of imprisonment of 25 years.



6. The Applicant submitted the appeal at the same time as the resentence application, which is procedurally incorrect and may undermine the integrity of the judicial process, mainly because the Applicant did not make necessary disclosures regarding the Court of Appeal matter. The Court of Appeal records were obtained as a precaution at the Court's initiative prior to reviewing the resentence application.
7. In light of the above, should this Court decide to reconsider the sentence, it would undermine the established hierarchy of the judicial system.
8. The application is dismissed.
9. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 17TH DAY OF MARCH, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Applicant present

Ms. Omondi ODPP, for Respondent

