



**James v Republic (Petition 33 of 2019) [2025] KEHC 4686 (KLR) (4 April 2025) (Sentence)**

Neutral citation: [2025] KEHC 4686 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA**

**PETITION 33 OF 2019**

**REA OUGO, J**

**APRIL 4, 2025**

**IN THE MATTER IMPUGNED UNDER ARTICLE 23 (1),165 (3) (B)  
(D)(1),50(2),25 (C) (D),51 (1)AND 163 OF THE CONSTITUTION  
OF KENYA 2010 AND SECTION 296 (2) OF THE PENAL CODE.**

**AND**

**IN THE MATTER OF ARTICLE 20 (1) (4),21 (1), 48,258  
(III) OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF CONTRAVENTION OF FUNDAMENTAL RIGHTS AND  
FREEDOMS UNDER ARTICLE 25 (A) (C), 26 (1), 27 (1) (2),28,29 (D) (F) (2) AND  
ARTICLES 23 (1) UNDER SECTION (3) OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER ARISING FROM SECTION 295 (1) AS  
READ WITH SECTION 296 (2) OF THE PENAL CODE**

**BETWEEN**

**DESTERIOUS SAMUEL JAMES ..... PETITIONER**

**AND**

**REPUBLIC ..... RESPONDENT**

**SENTENCE**

1. The Petitioner stated his mitigation that he has been in jail since 2014. He was 17 years old at the time the offence was committed, and he has become a better person.
2. The prosecution drew the court’s attention to their submissions, where they requested the court to uphold the death sentence considering the circumstances of the offence. The victims sustained grave



injuries in the presence of the 2 children who were below 14 years old. The victim was even raped in front of her children and left with lasting scars on the body and mind.

3. The petitioner committed a very serious offence of robbery with violence. The victim was under a brutal attack, which left children with scars on their bodies and minds for as long as they will live. The robbery was brutal and uncalled for. The photographs presented in court were grisly and heartbreaking. The victims also lost property. In my view, though the applicant is said to be a first offender he deserves a stiff sentence.
4. I have perused the court proceedings, and nowhere in the proceedings did the petitioner inform the trial court that he was 17 years old, nor did the court note that he was of a young age. This wasn't brought up during the trial. It is being brought up at this stage. In my view, it is an afterthought.
5. I therefore sentence the Petitioner, Desterious Samuel James, to serve thirty (30) years imprisonment. The period he was in remand before sentence by the lower court and the years he has been in prison shall be taken into account when computing his sentence.
6. He has a right of appeal on the sentence.

**DATED, SIGNED, AND DELIVERED AT BUNGOMA THIS 4<sup>TH</sup> DAY OF APRIL 2025.**

**R.E OUGO**

**JUDGE**

In the presence of:-

Desterious Samuel James / Petitioner

Miss Kibet For the Respondent/ ODDP

Wilkister - C/A

