



REPUBLIC OF KENYA



**KENYA LAW**

THE NATIONAL COUNCIL FOR LAW REPORTING

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**Wanjala v Republic (Petition 22 of 2018) [2025] KEHC 8283 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8283 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
PETITION 22 OF 2018  
RN NYAKUNDI, J  
JUNE 12, 2025**

**BETWEEN**

**FRANCIS MASINDE WANJALA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before this court is an application made in the above-mentioned case which states as follows:
  - i. That this hon. court be pleased to determine my application for re-hearing of the sentence imposed against me
  - ii. That it is within the rules of law for the same to be considered
  - iii. That this application is grounded upon annexed affidavit of Francis Masinde Wanjala and other further grounds to be adduced at the hearing of this application thereof
2. It is further annexed by an affidavit sworn by Francis Masinde Wanjala which states as follows:
  - i. That I am a Kenyan male adult of sound of mind hence competent to make oath
  - ii. That I was charged with the offence of murder c/s 203 and 204 of the penal code and sentenced to death which was later commuted to life sentence by the president of the republic of Kenya.
  - iii. That, I humbly make this application in regard to the above mentioned articles reliance of article 165(3) (b) of *the constitution* which empowers this honorable court to handle application of this nature.
  - iv. That I was convicted and sentenced to serve life sentence on charge of manslaughter.
  - v. That I the applicant herein was not accorded fair trial of sentencing from the trial court thus contravening article 50(2) (q) of *the constitution* while relying on the case of Douglas Muthaura



Ntoribi Misc.app. no. 4 of 2015 at Meru High court and in the case of murder of John Nganga Gacheru and Another in HCCR. Case no. 31/016 at Kiambu high court and *William Okungu Kittiny vs rep* 2018 eKLR criminal appeal no. 56/2013 court of appeal Kisumu

- vi. That I am the applicant herein further relying in the case of Francis Karioko Muruatetu and another vs rep (supreme court petition no.15 of 2015) that mandatory death penalty is unconstitutional thus seeking for appropriate sentence
- vii. That other grounds to be adduced at the hearing of this application
- viii. That I swear this affidavit in support of my application herein by way of notice of motion and what I have deponed herein is true to the best of my knowledge, information and belief

## DECISION

3. Having consider the submissions by the applicant and entire record of the trial court the question is whether or not the application is merited. For this court to exercise review jurisdiction within the provisions of section 362, 364 of the CPC and article 50(6) (a), (b) of *the constitution* it must be shown that the decision was based on a manifest error on the face of the record resulting in the miscarriage of justice or at that the accused persons was deprived of an opportunity to be heard, or there were irregularities in the trial court proceedings or that there is apparent error of law and facts and the learned trial magistrate misconceived the entire case.
4. To decide what sentence is appropriate to the perpetrator in the circumstance of this case, courts are guided by precedent. It can be argued that the circumstances of the perpetration of the same offence by different offenders on different occasions can be so varied that the previous decided cases are of little assistance. It can also be asserted that case can, notwithstanding variation, have similarities which become apparent once particular factors are identified as being of importance in sentencing.
  1. Broadly speaking in identifying an aggravating circumstances or mitigating circumstances bearing on culpability to be taken into account in determining whether this court want to review the prescriptive sentence top down approach am of the view that the criteria set by the law has not been proven by the applicant. The motion is therefore dismissed for want of merit
  2. It is ordered.

**SIGNED, DATE AND DELIVERED AT ELDORET THIS 12<sup>TH</sup> DAY OF JUNE 2025**

**R. NYAKUNDI**

**JUFHR**

