



**Mudala v Republic (Criminal Petition E008 of 2023)  
[2025] KEHC 10543 (KLR) (18 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10543 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL PETITION E008 OF 2023  
WM MUSYOKA, J  
JULY 18, 2025**

**BETWEEN**

**CLEMENT ODUOR MUDALA ..... PETITIONER**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The petitioner had been convicted of murder in Busia HCCRC No. 14 of 2003. He was sentenced to death. The sentence of death was subsequently commuted to life imprisonment. He has moved this court, seeking review of his sentence, not that of death, but that to which it was commuted, the life imprisonment. He based his case on *Julius Kitsao Manyeso v Republic* [2023] eKLR (Nyamweya, Lesiit & Odunga, JJA).
2. The decision in *Julius Kitsao Manyeso v Republic* [2023] eKLR (Nyamweya, Lesiit & Odunga, JJA) no longer stands. It was held to be bad law, on the basis that the sentences of death and life imprisonment remain constitutional and legal until Parliament amends the statutes on those sentences. That reversal of *Julius Kitsao Manyeso v Republic* [2023] eKLR (Nyamweya, Lesiit & Odunga, JJA) came from the Supreme Court, in a series of decisions, being *Republic v Manyeso* [2025] KESC 16 (KLR) (Mwilu, DCJ&VP, Ibrahim, Wanjala, Ndung'u & Lenaola, SCJJ), *Republic v Manyeso* [2025] KESC 16 (KLR) (Mwilu, DCJ&VP, Ibrahim, Wanjala, Ndung'u & Lenaola, SCJJ) and *Republic v Ayako* [2025] KESC 20 (KLR)(Mwilu, DCJ&VP, Ibrahim, Wanjala, Ndung'u & Lenaola, SCJJ).
3. In view of that there would be no basis for reviewing the life imprisonment based on *Julius Kitsao Manyeso v Republic* [2023] eKLR (Nyamweya, Lesiit & Odunga, JJA).
4. In any event, under the *Criminal Procedure Code*, the petitioner had a right of appeal, he should have exploited that, for there is no other route to review of sentences, except through appeal or revision. I



cannot revise it, based on section 362 of the *Criminal Procedure Code*, as it was given within discretion, and the only available option should be appeal.

5. There is no merit in the Motion and Petition herein. I accordingly dismiss them. Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED, IN OPEN COURT, AT BUSIA, ON THIS 18<sup>TH</sup> DAY OF JULY 2025.**

**WM MUSYOKA**

**JUDGE**

**Mr. Arthur Etyang, Court Assistant.**

**Mr. Clement Oduor Mudala, the petitioner, in person.**

**Advocates**

**Mr. Antony Onanda, instructed by the Director of Public Prosecutions, for the Respondent.**

