



REPUBLIC OF KENYA



KENYA LAW
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**Njuguna v Republic (Criminal Revision E003 of 2023)
[2024] KEHC 1525 (KLR) (16 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1525 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL REVISION E003 OF 2023
PJO OTIENO, J
FEBRUARY 16, 2024**

BETWEEN

DANIEL NJIHIA NJUGUNA PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. Prior to filing this Petition in Voi, the Applicant having been tried by the Senior Resident Magistrate's Court in Vihiga, appealed against the conviction and sentence in Nairobi HC. CR. Appeal No. 1157 of 1998. That appeal was considered on the merits and dismissed on the 13.10.2003.
2. Feeling aggrieved, for the second time, the petitioner appealed to the Court of Appeal in Nairobi CA.CR.A. No. 122 of 2004. That second appeal was equally dismissed on the 14.6.2013.
3. That development saw the Petitioner file Kakamega HCCR. Pet. No. 42 of 2019 on the 01.04.2019 in which he sought that he be resented and the period taken in custody awaiting trial and appeals be taken into account.
4. That Petition was equally considered on the merits and by a Ruling dated 7th October 2022, the same was dismissed for reasons, among them that the Court did not have jurisdiction to entertain the matter on the authority of *Francis Karioko Muruatetru & Another v Republic* [2021] eKLR.
5. Having reviewed the Petition filed in Kakamega and that filed in Voi long after the Kakamega matter had been decided, I find that the Petitioner went all the way to Voi with the hope that, owing to distance between the two Court registries, it would not be possible to detect that his attempt at re-sentence had failed. In doing so he was abusing the Court process.



6. On that basis, over and above that the matter is clearly resjudicata, the undated Petition filed in Voi on a date not disclosed, but transferred to this Registry pursuant to the Order of 17.7.2023 is hereby struck out.

DATED, SIGNED AND DELIVERED IN KAKAMEGA THIS 16TH DAY OF FEBRUARY, 2024.

PATRICK J. O. OTIENO

JUDGE

In the presence of:

No appearance for the Applicant

Ms. Chala for the Respondent

Court Assistant: Polycap Mukabwa

