



**Gatimu v Republic (Criminal Revision E023 of 2024)
[2024] KEHC 9435 (KLR) (24 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9435 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL REVISION E023 OF 2024
DKN MAGARE, J
JULY 24, 2024**

BETWEEN

MAXWEL MUCHIRI GATIMU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was arrested on 11/10/2007, charged and convicted of robbery with violence. An Appeal being HCCRA 26 of 2009 was dismissed by Hon. Justice Wakiaga. He appealed to the Court of Appeal and reportedly withdrew the same.
2. The Applicant submitted that the court has a unique jurisdiction as held in *Protus Buliba Shikuku – vs- Attorney General and William Okungu Kittiny –vs- Republic* [2018] eKLR.
3. The state submitted that when equating the sentence, I take cognizance of the fact that excessive force was used. The Applicant sought that the sentence be reheard.
4. The Applicant only relied on the fact that the sentence should be heard. He stated that he had served 17 years.
5. The prosecution notes that the Applicant had served 17 years. This is not a consideration. The consideration is that the Applicant were ruthless and armed with AK-47. The said ruthlessness and excessive use of force must be taken into consideration.
6. In the circumstances I hereby set aside the death sentence and re-sentence the Applicant to 30 years in prison starting from 11/10/2007. The file is closed.

DELIVERED, DATED AND SIGNED AT NYERI ON THIS 24TH DAY OF JULY, 2024.

RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.



KIZITO MAGARE

JUDGE

In the presence of:-

Ms. Kaniu for State

Applicant in person

Court Assistant – Jedidah

