



**Ogango v Republic (Miscellaneous Criminal Application  
E090 of 2022) [2023] KEHC 2790 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2790 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E090 OF 2022**

**RE ABURILI, J  
MARCH 24, 2023**

**BETWEEN**

**BERNARD ONYANGO OGANGO ALIAS BOSS ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant herein Bernard Onyango Ogango alias Boss by his application dated August 25, 2022 seeks for commutation of thirty (30) years imprisonment imposed on him upon conviction for the offence of murder vide High Court Criminal Case No 9 of 2017 at Kisumu, to the period already served in prison.
2. He claims that he was in custody for 4 years and 2 months prior to sentencing which was not taken into account. That he appealed to the Court of Appeal in Eldoret and the appeal was dismissed.
3. I have considered the application and the affidavit which is not sworn. Punishment for murder upon conviction is death. The applicant was sentenced to serve thirty (30) years imprisonment which was a discretion exercised by the trial judge. This court has no jurisdiction to reduce that sentence further.
4. On the allegations that the convict was in custody for four (4) years and two (2) months prior to sentencing, no proceedings or even charge sheet were annexed for court to peruse and appreciate when he was arrested and whether or not he was released on bail pending trial.
5. I find the application for commutation of thirty (30) years imprisonment to the period already served in prison misguided. It is hereby dismissed.
6. Order/signal to issue.
7. File closed.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 24<sup>TH</sup> DAY OF MARCH, 2023

RE ABURILI

JUDGE

