



Owala v Republic (Petition E015 of 2021) [2023] KEHC 2883 (KLR) (24 March 2023) (Ruling)

Neutral citation: [2023] KEHC 2883 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
PETITION E015 OF 2021
RE ABURILI, J
MARCH 24, 2023**

BETWEEN

MATHAYO OTIENO OWALA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This petition was filed on February 10, 2021 by Mathayo Otieno Owala, a murder convict who claims vide his Petition for resentencing filed on February 10, 2021 that he was convicted for murder vide Kisumu HCCR No 53 of 2011 and sentenced to death in 2011.
2. That the death sentence was committed to life imprisonment in 2016.
3. Nonetheless, from the file records, the petitioner filed an appeal which is pending before the court of appeal and as at now, it has not been determined or even withdrawn.
4. This court cannot keep this file live when a substantive appeal against conviction and sentence is pending before the Court of Appeal.
5. For the above reasons, I find this petition to have been prematurely filed. It is hereby dismissed.
6. This ruling to be typed and signal extracted and served upon the Petitioner and ODPP Kisumu.
7. File closed.
8. I so order.

Dated, Signed and Delivered at Kisumu this 24th Day of March, 2023

R. E. ABURILI

JUDGE

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