



REPUBLIC OF KENYA



KENYA LAW
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**Oyugi & another v Republic (Petition E008 of 2022)
[2023] KEHC 2786 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2786 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
PETITION E008 OF 2022
RE ABURILI, J
MARCH 24, 2023**

BETWEEN

WILLIAM OYUGI 1ST PETITIONER

TILLEN ODHIAMBO 2ND PETITIONER

AND

REPUBLIC RESPONDENT

(From original Conviction and sentence in Criminal Case No 15 of 2012 in the High Court at Homabay and in Criminal Appeal No. 203 of 2014 in the Court of Appeal at Kisumu)

RULING

1. This Petition for Resentencing by William Oyugi and Tillen Odhiambo was filed on August 11, 2022. The Petitioners appeared before the Deputy Registrar on August 16, 2022 and stated that the trial took place in Homabay. The Deputy Registrar observed that the matter falls within the jurisdiction of Homabay hence it was to be mentioned in High Court 2 for transfer to Homabay High Court on September 13, 2022.
2. On the latter date, the matter still went before the Deputy Registrar as it was a recess date and that is when she fixed it for mention on May 9, 2023, eight (8) months away.
3. I have perused the Petition. I find that the Petitioners were tried, convicted and sentenced to suffer death on October 6, 2014 by D S Majanja J vide Homabay High Court Criminal Case No 15 of 2012.
4. Any petition for resentencing has to be filed at Homabay High Court for consideration.
5. Nonetheless, the High Court cannot review its own orders on sentence. The Petitioners have not indicated whether they filed an appeal or not, and whether the appeal, if any to the Court of Appeal, has been heard and determined.



6. I find this Petition to be misplaced before this court. As there is no limitation of time for filing of such petition before the correct court, I find no reason to transfer a petition which is premature and filed in a wrong court. I dismiss the petition.
7. The Petitioners are at liberty to file their petition before the right court and make full disclosure of all facts in the matter.
8. Ruling to be typed and order/signal extracted forthwith.
9. I so order.
10. File closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 24TH DAY OF MARCH, 2023

R. E. ABURILI

JUDGE

