



REPUBLIC OF KENYA



KENYA LAW
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**Korir v Republic (Criminal Petition E036 of 2022)
[2023] KEHC 3139 (KLR) (12 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3139 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL PETITION E036 OF 2022
RE ABURILI, J
APRIL 12, 2023**

BETWEEN

PHILIP KIPTOO KORIR APPLICANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The Petitioner is Phillip Kiptoo Korir. He was convicted and sentenced to suffer death on August 31, 2016 vide Winam Senior Resident Magistrate's Court Criminal Case No. 646 of 2014 for the offence of Robbery with Violence contrary to section 296(2) of the *Penal Code*.
2. In his petition herein for resentencing dated and filed on 15th November 2022, he claims that he appealed against conviction and sentence vide HCRA No. 28 of 2016 at Kisumu which appeal was dismissed on November 24, 2016.
3. He states that the death sentence was then commuted to life imprisonment on October 19, 2016. That he enrolled and trained in various life's skills as shown by the testimonials supporting his petition. That he has learnt a lot in prison, his wife disappeared with another man, leaving his four little children with his aged father who is a widower. That he prays for lighter sentence to save his children.
4. I have considered the petition and all the supporting averments and proceedings and judgment in the lower court as well as in the High Court on Appeal vide HCRA No 28 and 29 of 2016 consolidated where he was co-joined with Peter Kiprotich Sigilai his co-accused/appellant.
5. I have considered the circumstances under which the Petitioner/Convict herein robbed PW 1 viciously nearly killing him. The petitioner knew that he has a wife, children and aged widowed father. He, jointly with his co-convict robbed PW 1 of a head of cattle after cutting PW 1 into pieces. The injuries were near fatal. The robbers were also armed with a panga, arrows, bows and iron bars. They do not



deserve any mercy of the court as their intentions and mission was to kill the herdsman and take off with the herd.

6. I am not persuaded to interfere with sentence imposed which was merited.
7. I decline to exercise any discretion now that the death sentence was commuted to life imprisonment.
8. I find this Petition not merited. It is declined and dismiss it.
9. File closed. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 12TH DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

