



**Kizito v Republic (Miscellaneous Criminal Application  
E015 of 2023) [2023] KEHC 3153 (KLR) (12 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3153 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E015 OF 2023**

**RE ABURILI, J  
APRIL 12, 2023**

**BETWEEN**

**FREDRICK KIZITO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant herein Fredrick Kizito was convicted and sentenced to serve fifteen (15) years imprisonment for the offence of murder contrary to Section 203 of the *Penal Code* vice HCR No 50 of 2003 at Kisumu.
2. He now claims that he was aged 17 years when he was sentenced and that he is now reformed and trained in life's skills as shown by the annexed certificates.
3. I have perused the documents annexed. Among them is a warrant of committal to prison dated March 10, 2006. The Petitioner was sentenced to death and vide Kisumu High Court Petition No 49 of 2019, he was resented to serve fifteen (15) years imprisonment.
4. The fifteen (15) years imprisonment was to run from June 18, 2019. The Applicant having been resented by the court of competent, concurrent jurisdiction, this court has no power to resentence or reduce the imposed sentence further.
5. Further, vide the order dated February 15, 2022, FA Ochieng J, (as he then was) stated as follows: -

“It is ordered that when the prison authorities are calculating the period which the application is to spend when serving sentence, should take into account the three (3) years, six (6) months and 9 days which he spent in custody during trial.”



6. The Convict has already benefited from resentencing. I find this application misplaced and a total lie that he was aged 17 years old. It is hereby dismissed.
7. This file is hereby closed.
8. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 12<sup>TH</sup> DAY OF APRIL, 2023**

**R. E. ABURILI**

**JUDGE**

