



**Odeny v Republic (Miscellaneous Criminal Application
E096 of 2022) [2023] KEHC 3309 (KLR) (13 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3309 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E096 OF 2022**

**RE ABURILI, J
APRIL 13, 2023**

BETWEEN

ALEX OWUOR ODENY APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Convict is Alex Owuor Odeny. In his application dated September 27, 2022, supported by an unsworn affidavit, he pleads that he was convicted and sentenced to death for the offence of Murder contrary to Section 203 as read with Section 204 of the *Penal Code* vide Kisumu HCCR No 44 of 2012.
2. He claims that he never appealed to the Court of Appeal. He seeks for a rehearing and resentencing in line with the *Francis Muruatetu & Another vs Republic (2017)* eKLR.
3. I have perused the application. I find no merit in it as the Convict had the opportunity to appeal and even seek for resentencing on appeal.
4. This court cannot review lawful sentence passed by a court of concurrent competent jurisdiction.
5. The application for resentencing is dismissed.
6. This file is hereby closed.
7. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 13TH DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

