



**Wanyonyi v Republic (Criminal Petition 36 of 2019)
[2023] KEHC 3861 (KLR) (3 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3861 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL PETITION 36 OF 2019**

REA OUGO, J

APRIL 3, 2023

BETWEEN

PETER SANDE WANYONYI PETITIONER

AND

REPUBLIC RESPONDENT

JUDGMENT

1. Peter Sande Wanyonyi, the Petitioner, filed a petition on the 14th November 2019 seeking re-sentencing in respect of CRC No. 258/07 at CM's Bungoma. The petitioner states that he was charged and sentenced to death for the offence of robbery with violence in CRC No. 258 of 2007. He filed an appeal to the High Court vide HCCRA No. 2,3,& 9 of 2008 at Bungoma & CRA No. 279/09 at Eldoret. His death sentence was later commuted to a life sentence in 2009. He has been in custody for 12 years since his arrest. That based on the Supreme Court ruling the mandatory death sentence awarded to him is unconstitutional inhumane and degrading.
2. The petition was opposed by the respondent on grounds that the petitioner's appeal was dismissed by the High court and that this court does not have the jurisdiction to entertain the petition.
3. I agree with the Respondent that this court lacks the jurisdiction to grant the orders being sought as a court of similar jurisdiction heard the petitioner's appeal and dismissed it. . The directions given on 6th July 2021 by the Supreme Court in the case of *Francis Karioko Muruatetu & Another v Republic* [2017] eKLR was that the said decisional law is not an authority to declare all mandatory or minimum sentences unconstitutional. Its application was limited to murder cases falling within its scope. Therefore, the petitioner's being a case of robbery with violence, the request by the petitioner for review of sentence on the basis of Muruatetu case is without merit . His petition therefore fails and is dismissed.

**DATED, SIGNED AND DELIVERED AT BUNGOMA VIA MICROSOFT TEAMS THIS 3RD
APRIL 2023.**



R.E.OUGO

JUDGE

In the presence of;

Petitioner in person

Mr. Ayekha For the State/Respondent

Okwaro C/A

