



**Dimba v Republic (Criminal Petition E007 of 2023)
[2023] KEHC 18982 (KLR) (19 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 18982 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL PETITION E007 OF 2023
RE ABURILI, J
JUNE 19, 2023**

BETWEEN

GEORGE OLUOCH DIMBA PETITIONER

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The Convict/Petitioner herein is George Oluoch Dimba. He filed his petition and Notice of Motion on 6th June 2023 seeking for resentencing in Kisumu HCCRC No. 37 of 2010 wherein he was convicted of the offence of murder and sentenced to death. He claims that death sentence imposed on him was unconstitutional.
2. However, the records held by this court show that the convict herein appealed and his appeal is still pending vide Court of Appeal Criminal Appeal No. 3 of 2020.
3. This court cannot resentence the convict whose appeal is still pending before the Court of Appeal.
4. I find the Petition to be premature as this court cannot review its own sentence imposed on the convict vide Kisumu HCCR No. 39 of 2010, by a court of concurrent jurisdiction on 13th November 2013 when the said matter is pending consideration by the Court of Appeal.
5. This Petition for resentencing is found to be premature and is hereby declined and dismissed as an appeal vide Court of Appeal Criminal Appeal No. 3 of 2020 is still pending determination
6. This file is hereby closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF JUNE, 2023

R. E. ABURILI

JUDGE

