



REPUBLIC OF KENYA



KENYA LAW
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**Muyekho v Republic (Criminal Petition E095 of 2021)
[2023] KEHC 20366 (KLR) (21 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20366 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL PETITION E095 OF 2021
WM MUSYOKA, J
JULY 21, 2023**

BETWEEN

LEONARD MUYEKHO PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. The undated Motion seeks re-sentencing, limited to consideration of the period spent in custody. The petitioner had been sentenced to death for robbery with violence. The death penalty was commuted to life imprisonment by the President of the Republic, and further reduced to 20 years imprisonment in *Kakamega HC Constitutional Petition No 58 of 2018*.
2. Ideally, when the matter was placed before the Judge in Kakamega HC Constitutional Petition No 58 of 2018, when the life sentence was reduced to 20 years in jail was considered, the issue of the period spent in custody should have come up. The proceedings in Kakamega HC Constitutional Petition No 58 of 2018 have not been placed before me, and I cannot tell whether or not that that was not considered and factored in the final determination, in that matter.
3. In the absence of the proceedings and determination In Kakamega HC Constitutional Petition No 58 of 2018, I am unable to exercise discretion with respect to the undated Motion before me, and I accordingly dismiss it. It is so ordered.

**RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS
21ST DAY OF JULY 2023**

WM MUSYOKA

JUDGE

Mr. Erick Zalo, Court Assistant.



Appearances

Leonard Muyekho, the petitioner, in person.

Ms. Kagai, instructed by the Director of Public Prosecutions, for the respondent.

