



REPUBLIC OF KENYA



**Imbati v ODDP (Criminal Petition E006 of 2022)  
[2023] KEHC 22499 (KLR) (21 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22499 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL PETITION E006 OF 2022  
PJO OTIENO, J  
SEPTEMBER 21, 2023**

**BETWEEN**

**SILAS IMBATI ..... PETITIONER**

**AND**

**ODDP ..... RESPONDENT**

**RULING**

1. Having perused the two Petitions by the Petitioner seeking to be re-sentenced pursuant to the Muruatetu (1)<sup>1</sup> decision, and upon reading the proceedings at trial, those on appeal at the High Court and in the Court of Appeal, the court finds that the petitioner having been charged with the offence of robbery with violence is not subject for consideration for re-sentencing.
2. In its directions to the Courts below it, the Supreme Court in Muruatetu (2)<sup>2</sup> did direct as follows:  

“Having considered all the foregoing, to obviate further delay and avoid confusion, we now issue these guidelines to assist the courts below us as follows:

  - (i) The decision of Muruatetu and these guidelines apply only in respect to sentences of murder under section 203 and 204 of the *Penal Code*...”
3. It is obvious that having been charged, and convicted of robbery with violence and having exhausted his appellate rights, the petitioner is not entitled to seek re-sentencing before this court. The two Petitions are therefore dismissed.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2023.**

<sup>1</sup> [Francis Karioko Muruatetu & Another -vs- Republic](#) [2017] eKLR

<sup>2</sup> [Francis Karioko Muruatetu & Another -vs- Republic](#) [2021] eKLR



**PATRICK J. O. OTIENO**  
**JUDGE**

