



REPUBLIC OF KENYA



**Mboga & another v Republic (Criminal Revision E018 of 2023)
[2023] KEHC 23928 (KLR) (6 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23928 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL REVISION E018 OF 2023
RE ABURILI, J
OCTOBER 6, 2023**

BETWEEN

CARILUS OMONDI MBOGA 1ST APPLICANT

ROSEMARY APONDI OMONDI 2ND APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in High
Court Criminal Case No. 06 of 2009 at Kisumu)*

RULING

1. The two applicants Carilus Omondi Mboga and Rosemary Apondi Omondi were serving death sentence following their conviction for the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code* vide Judgment delivered on 28th May 2025 after pleading not guilty in Kisumu HCCR Case No. 06 of 2009.
2. Vide Misc. HCCR Application No. 34 of 2020, they applied for consideration of the period they had spent in custody prior to their sentencing and the court allowed that application on 3rd March 2021.
3. They have been in prison for close to eight (8) years now. They apply for sentence revision.
4. I have considered their application filed on 14th August 2023. I am not satisfied that the applicants qualify for sentence review for prison decongestion as they still have over 20 years to complete the prison term.
5. The case does not fall within Section 3 of the *Community Service Order Act*. I decline to revise the sentence considering the seriousness of the offence charged and convicted of wherein they were initially



sentenced to death but on appeal to the Court of Appeal, vide judgment rendered on 3rd October 2019, the death sentence was set aside and substituted with thirty (30) years imprisonment.

6. I decline to revise the thirty (30) years imprisonment and dismiss the application file on 14th August 2023.
7. File closed.
8. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 6TH DAY OF OCTOBER, 2023

R. E. ABURILI

JUDGE

