



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT ELDORET**

**HIGH COURT PETITION NO. 78 OF 2019**

**JOSEPH KARIUKI THUITA ..... 1<sup>ST</sup> PETITIONER**

**JULIUS KIPTANUI MISOI ..... 2<sup>ND</sup> PETITIONER**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. In a Judgment dated 26<sup>th</sup> June 2019 and delivered in Criminal Appeal Nos. 16 and 17 of 2015 (1) Julius Kiptanui Misoi (2) Joseph Kariuki Thuita -vs- Republic, Justice Kimaru stated:-

“On sentence, the custodial sentence that was meted by the trial court is legal. This court cannot interfere with the same. Indeed, the Appellants were sentenced to serve the minimum sentence provided by the law. Taking into consideration all the circumstances of the case, this court holds that the verdict reached by the trial court in respect of sentence was justified in the circumstances. The appeal against sentence therefore lacks merit and is hereby dismissed. It is so ordered.”

2. The two have again approached the Court seeking a revision of their sentences. The Application is opposed on other grounds but also that there was already an appeal on sentence.

3. I have to agree with the State. The Appellants already took their chance on sentence and the Court delivered itself. That Court is one of concurrent jurisdiction with this Court. I cannot review that decision. The Applications are an abuse of Court process and are hereby dismissed.

**Dated, Signed and Delivered in Court at Nairobi this 1<sup>st</sup> Day of February 2021**

**F. TUIYOTT**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 17<sup>th</sup> April 2020, this Ruling has been delivered to the parties through virtual platform.

**F. TUIYOTT**

**JUDGE**

**PRESENT:**

Joseph Karuiki Thuita (the 1<sup>st</sup> applicant) in person.

Julius K. Misoi (the 2<sup>nd</sup> applicant) in person.

Miss Muhonja (D.P.P) for the State.