

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CONSTITUTIONAL PETITION NO. 33 OF 2019

JARED OCHIENG OKOTH.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

(Petition for resentencing following mandatory death sentence imposed)

JUDGMENT

1. The petitioner by this petition seeks for resentencing following his conviction and sentence of death imposed on him for the offence of Robbery with violence contrary to section 296(2) of the Penal Code vide Siaya **PM Cr Case No 731 of 2016 and Kisumu CA CRA No. 212 of 2009**. His co-convict **George Otieno Odero** also filed a petition before this court vide **HC CONST PET No. 7 of 2018** and benefitted from resentencing following the **Francis Muruatetu v Republic SC PET 15/2015** decision that declared the mandatoriness of death sentence unconstitutional for depriving the convict an opportunity to mitigate and for depriving the trial court of the judicial discretion in sentencing.

2. I have considered the petition herein and the mitigations by the petitioner and his submissions. The petitioner has been in prison from 2006 and he was only 23 years then. He is now 39 years. He promises not to engage in crime as he has learnt lessons and he is reformed. He has trained in life's skills of soap making and a diploma in Biblical studies.

3. I note that the complainant was robbed of a matatu but he was not injured. The robbed vehicle was damaged as the robbers did not know how to drive it but it was recovered and the robbers nabbed. I am satisfied that the petitioner has learnt lessons in prison and he is unlikely to reoffend. Should he do so, the law that put him behind bars is still live.

4. I hereby allow the petition for resentencing and order that the Petitioner shall now serve twenty (20) years in prison instead of life imprisonment as commuted and subject to his good conduct, discipline and industry, he may benefit from remission of sentence.

5. The sentence to be calculated from the date of arrest on 7.8.2006.

6. Orders accordingly.

Dated, Signed and Delivered at Siaya this 21st Day of January, 2020

R. E. ABURILI

JUDGE

In the presence of:

The Petitioner in person

Mr. Okachi SPPC for Respondent

CA: Brenda and Modestar