

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CONSTITUTIONAL PETITION NO. 51 OF 2019

(CORAM: R. E. ABURILI - J.)

JARED OUMA OMOLLO.....APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

(Being a Petition for Resentencing from Siaya PM's Court, Criminal Case No. 46 of 2006 and Kisumu HC CRA NO. 70 of 2006)

JUDGMENT

1. The petitioner Jared Ouma Omollo was convicted of the offence of Robbery with violence contrary to section 296(2) of the Penal Code. His petition reveals that he was sentenced to death by Siaya SRM's Court. He appealed vide **Kisumu High Court Criminal Appeal No. 70 of 2006** which appeal was dismissed. There is no evidence that he appealed against that judgment of the High Court. Which still stands.
2. As the judgment of this court (Kisumu High Court) a court of concurrent jurisdiction dismissing the appellant's appeal has not been challenged, this court is a functus officio.
3. It has no jurisdiction to review its own judgment on sentence.
4. The Petition is found to be misplaced and dismissed.
5. File closed.

Dated, signed and delivered at Siaya, this 18th day of February, 2020.

R.E. ABURILI

JUDGE

In the presence of:

Jared Ouma Omollo, Applicant

Mr. Okachi, Senior Principal Prosecution Counsel for Respondent

Court Assistants: Brenda Achieng and Modestar Mutiemani