

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CONST. PETITION NO.87 OF 2019

PAUL MWITA ROBI.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

The applicant **Paul Mwita Robi** was charged with the robbery with violence in 2006. He was sentenced to death. The death sentence was upheld by the High Court and the Court of Appeal too in 2020.

In his application filed on the 16/8/2018 he seeks resentencing in light of the Supreme Court decision in **Francis Karioko Muruatetu and 2 others versus Republic [2017] eKLR**. The death sentence meted on the applicant and affirmed by the High Court and Court of Appeal is unconstitutional.

I have considered the circumstance of the case as stated in the Court of Appeal judgment and the applicant's mitigating facts.

Bearing in mind the decision in the Muruatetu case. I set aside the death sentence passed on the applicant and substitute it with a sentence of 20 years to run from the date of sentence by the trial court. The applicant has a right of appeal within 14 days.

Dated, signed and delivered at Kisii this 2nd day of March, 2020.

R.E. OUGO

JUDGE

In the presence of;

Applicant Paul Mwita Robi

Mr. Kaba For the applicant

Mr. Otieno Senior Prosecution Counsel office of the DPP

Ms. Rael Court Clerk