

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

PETITION NO. 15 OF 2019

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

GEORGE ODUOR OTIENO.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Petitioner **GEORGE ODUOR OTIENO** was convicted and sentenced to suffer death by the trial court in Bondo PM Cr. Case No. 100/2008 for the offence of robbery with violence contrary to section 296(2) of the Penal Code. He appealed to the High Court vide HCCr. Appeal No. 112 and 113/2009 which appeal was dismissed. He appealed further to the Court of Appeal in CRA 21/2014 which appeal was allowed in part, of Sentence reduction only.

2. The Court of Appeal resented the Petitioner to serve 25 years in prison on 24/1/2019, thereby reducing the death sentence to prison term.

3. The Court of Appeal in resentencing the Petitioner must have taken into account the principles laid down in the *Francis Muruatetu & Others V SC Pet. Nos 15 and 16 2015*.

4. That being the case, and as the resentencing of the Appellant was done after the **Francis Muruatetu** decision, this court has no jurisdiction to review the decision of the Court of Appeal.

5. Accordingly, I find this petition not well founded. I proceed to dismiss it. File closed.

Orders accordingly.

Dated, Signed and Delivered in open court at Siaya this 3rd Day of June 2019.

R.E. ABURILI

JUDGE

In the Presence of:

Mr. Okachi, SPPC for State

Court Assistants: Brenda and Modestar

Petitioner (present in person)