

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

MISC. APPLICATION NO. 7 OF 2018

1. JOASH SOTA RATEMO

2. NICHOLAS MAGATI OIGO

3. JULIUS NYAKUNDI MASENYA.....APPLICANTS

-VERSUS-

REPUBLIC.....RESPONDENT

JUDGMENT- RESENTENCE

The applicants, **Nicholas Magati, Julius Nyakundi Masenya** and **Joash Sota Ratemo** were charged and convicted of the offence of murder. They were sentenced to suffer death.

In their application they have stated that they were sentenced was later on commuted to a life sentence. They were sentenced in 2016. They have been in jail serving sentence since 2016. They state they were remanded for 7 years. They now seek a resentence in light of the Supreme Court decision in the case of **Francis K. Muratetu & Another vs RSKC Petition No.15 of 2015** that declared the death sentence to be unconstitutional.

I have read the proceedings and the judgment of the High Court. I also note that they have served about 3 years in jail and were held in custody for about 7 years. The prosecution has suggested that they be resented to serve 18 years.

Having considered all the above and the circumstances of the case I resentence the applicants; **Joash Sota Ratemo, Nicholas Magati Oigo, Julius Nyakundi Masenya each** to serve 18 years from the date of sentence in court. They have a right of appeal within 14 days.

Dated, signed and delivered at Kisii this 3rd day of October 2019.

R.E OUGO

JUDGE

In the presence of;

Joash Sota Ratemo Present in person

Nicholas Magati Oigo Present in Person

Julius Nyakundi Masenya Present in Person

Mr. Otieno Senior Prosecution Counsel Office of the DPP

Ms. Rael Rael