



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. 111 OF 2018

JAMES MACHARIA MWANGI.....PETITIONER

VERSUS

DIRECTOR OF PUBLIC PROSECUTION.....RESPONDENT

12/11/2019

Before Hon. Justice E. Ogola

Court Assistant Kaunda

Mr. Fedha for State

Petitioner in person

Mr. Fedha:

My submissions are dated 22.8.19. Petitioner was charged with robbery with violence. He attacked the complainant armed with a stick. He did not hurt him. He stole the complainant's motor bike. He was sentenced to death. Nobody was injured. The prison progress report favours him. He has been in jail for 16 years. I pray that he be sentenced to 16 ears that he has served.

E. K. OGOLA

JUDGE

Petitioner:

I regret my actions. I have reformed. I am 59 years now. I have learnt First Aid with Red Cross. I am also a councilor and teacher in prison.

E. K. OGOLA

JUDGE

Court:

I have considered the petition and submissions of the parties especially that of the DPP. The Petitioner has served 16 years. He is now 60 years. He appears to me to be remorseful. The attack did not injure anybody. For purposes of correction I think the 16 years the Petitioner has served is enough punishment. I therefore set aside the death sentence herein and substitute the same with a jail term for 16 years. The Petitioner having served the said 16 years is now herewith forthwith released unless lawfully held.

E. K. OGOLA

JUDGE

12/11/2019