

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CONST. PETITION NO. 1 OF 2019

RONALD NGARE OMULIGA.....1ST PETITIONER

GEORGE MORARA KIBANGA.....2ND PETITIONER

-VERSUS-

REPUBLIC.....RESPONDENT

JUDGMENT

1. Ronald Ngare Omuliga (1st Petitioner) and **George Morara Kibanga** (2nd Petitioner) each filed a petition seeking re-sentencing. They were charged with Robbery with violence contrary to section 296(2) of the Penal Code Cap 63 and were convicted and sentenced to death.

2. Their appeal from the decision of the trial court **Nyamira CRC NO.49/2006** was dismissed by the **High Court in HCCRA NO.83/2008. Their appeal in Kisumu CRA App. No.24/ 2009 was also dismissed.** The 1st and 2nd petitioner are now each serving life sentence.

3. In this petition they rely on the case of **Francis Kariuki Miruatetu & Another (Supreme Court) Petition No.15/2015.** That 1st and 2nd petitioner's were sentenced in the year 2008. They were arraigned in court in 2005. They have been in jail for a period of 11 years. The 1st and 2nd petitioner mitigation in resentencing is that they have been rehabilitated and that they are remorseful. That they have been engaged in various activities whilst in prisons and have learnt trades that will assist them.

4. Mr. Otieno for the DPP did not oppose their application for resentencing but suggested that they be sentenced to 20 years. He also asked the court to note that an AP died during the robbery on the material day.

5. I have considered their petition of the 1st and 2nd petitioner and also the circumstances of the case that was before the trial court, I note that a person lost his life. They have been in custody for the last 11 years. Considering all the above I now resentence each petitioner, **Ronald Ngare Omuliga** and **George Morara Kibanga** to serve 25 years imprisonment. The sentence shall ran from the date the petitioners were sentenced in 2008.

Dated, signed and delivered at Kisii this 6th day of November 2019.

R.E OUGO

JUDGE

In the presence of;

1st Petitioner In Person

2nd Petitioner In Person

Mr. Otieno Senior Prosecution Counsel office of the DPP

Ms. Rael Court Clerk