

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

PETITION NO. 161 OF 2018

WILSON MWANGI KARIUKIPETITIONER

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. The Petition before the court seeks resentencing of the Petitioner pursuant to the Supreme Court Decision in *Francis Karioko Muruatetu & Another –Vs- Republic (2017) eKLR*.

2. The Appellant was charged and convicted for the offence of robbery with violence contrary to Section 296 (2) of the Penal Code. He was sentenced to suffer death and now is in this court for resentencing as aforesaid. He has already served twenty two (22) years in jail. He committed the offence in the company of other people who were never apprehended. He was armed with a pistol and robbed his victim of a motor vehicle.

3. Mr. Fedha for the prosecution submitted that the said offence is grave and that the Petitioner should serve twenty four (24) years in prison.

4. On his part, the Petitioner, who appeared in person submitted that he has reformed and has learnt from his mistakes. He is 58 years old and has learnt tailoring which he will use to sustain him outside prison. The Petitioner submitted that the 22 years he has served in prison should suffice for his crime.

5. The Prison Progress Report filed on behalf of the prisoner speaks well of him. That he has reformed and that he is well behaved and disciplined for the said 22 years.

6. I have carefully considered the Petition. The goals of sentence is retribution, rehabilitation and reformation. The 22 years the Petitioner has served in prison, in my view is adequate punishment as far as retribution and rehabilitation is concerned. Whether or not he has reformed will be seen when he rejoins the society.

7. I am satisfied that the Petitioner should be released and that his punishment be limited to the said 22 years already served. The Petitioner is therefore herewith forthwith released and set free unless held for valid reasons.

8. Right of appeal to be exercised within fourteen (14) days.

Delivered, dated and signed in open court at Mombasa this 11th day of November, 2019.

E. K. O. OGOLA

JUDGE

In the presence of:

Mr. Fedha for DPP

Petitioner in person

Mr. Kaunda Court Assistant