



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. 160 OF 2018

IN THE CONSTITUTION OF KENYA 2010 (SUPERVISORY JURISDICTION AND PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF AN INDIVIDUAL) HIGH COURT PRACTICE AND PROCEDURE RULES 2013

IN THE MATTER OF: ARTICLE 22(i) OF THE CONSTITUTION

AND

IN THE MATTER OF: ARTICLES 19, 20, 21, 22, 23, 24, 25, 27, 48, 50, 258 & 259 OF THE CONSTITUTION OF KENYA

AND

BETWEEN

ISAAC KAMAU IRUNGU.....PETITIONER

AND

DIRECTOR OF PUBLIC PROSECUTION.....RESPONDENT

JUDGMENT

16/12/2019

Before Hon. Justice E. Ogola

Court Assistant Kaunda

Ms. Mutua for DPP

Petitioner in person

Ms. Mutua:

The Petitioner was charged with robbery with violence in Criminal Case No. 231 of 1997. On 9/7/1996, the Petitioner being armed with AK 47 and pistol robbed Delphis Bank of cash 10,648,073 and threatened to cause violence. He was convicted and sentenced to death. His High Court Appeal No. 189/1998 was dismissed, but he was then sentenced to life imprisonment. He has now served 23 years in prison. I submit that the Petitioner was armed with a dangerous weapon. Even though he did not injure anyone I submit that a deterrent sentence of 25 years is sufficient.

HON. E. K. OGOLA

JUDGE

Petitioner:

I was convicted of the offence. I admitted my guilt and I have now gone a process of rehabilitation. I have also learnt dress making. I am

now a Trustee in prison. I am 59 years now. I was convicted when I was 26 years. I have been in prison for 23 years. I have a family in Nairobi. I have a wife and two children.

HON. E. K. OGOLA

JUDGE

Court:

The Petitioner has already served 23 years in prison. He DPP has suggested that he be jailed for 25 years. That simply means that if I allow the DPP's submission then the Petitioner is as good as released. I herewith jail the Petitioner for the time he has served in prison, being the 23 years. He is herewith set free unless lawfully held.

HON. E. K. OGOLA

JUDGE

16/12/2019