



**John & another v Republic (Miscellaneous Criminal Application
E035 of 2025) [2025] KEHC 14548 (KLR) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14548 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CRIMINAL APPLICATION E035 OF 2025
HI ONG'UDI, J
OCTOBER 16, 2025**

BETWEEN

DAVID KIPTOO JOHN 1ST APPLICANT

JOHN KARIA KINORO 2ND APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. David Kiptoo John and John Karia Kinoro the applicants herein were jointly charged and convicted of the offence of robbery with violence contrary to section 296(2) of the penal code, and sentenced to death in Nakuru CM's Court Criminal Case No. 3983 of 2013.
2. They respectively filed Nakuru High Court Criminal Appeal No. 57 of 2015 which was heard and dismissed.
3. They have filed this application for re-sentencing citing several provisions of *the Constitution* and the law.
4. The applicants claim that their co-accused Isaac Kaka Rotich had his sentence reduced to 18 years. They therefore would wish to have their death sentence reduced to 18 years.
5. From what is before this court the said Isaac Kaka Rotich was the appellant in Nakuru High Court Criminal Appeal No. 60 of 2015. The two appeals (ie High Court Criminal Appeal Nos 57 of 2015 and 60 of 2015) were consolidated and heard as one and Judgment delivered on 9th December, 2015 dismissing the appeal, by the three (3) appellants.
6. The Applicants cannot therefore claim that Isaac Kaka Rotich's sentence was in Nakuru High Court Criminal Appeal No. 57 as consolidated with High Court Criminal Appeal No. 60 of 2015 and was reduced to 18 years imprisonment.



7. The High Court is the one that heard and determined the said appeal. Therefore, this court being of equal status with the said court cannot interfere with the said Judgment. Let the applicants move to a more superior court to this one (Court of Appeal) to deal with their grievances.
8. I therefore find no merit in this application which I dismiss.
9. Orders accordingly.

DELIVERED VIRTUALLY, DATED AND SIGNED THIS 16TH DAY OF OCTOBER, 2025 IN OPEN COURT AT NAKURU.

H. I. ONG'UDI

JUDGE

