



**Ouma v Republic (Miscellaneous Criminal Application E003 of 2025)
[2025] KEHC 15304 (KLR) (17 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15304 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
MISCELLANEOUS CRIMINAL APPLICATION E003 OF 2025
WM MUSYOKA, J
OCTOBER 17, 2025**

BETWEEN

VICTOR ODUOR OUMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant herein had been convicted, in Busia CMCCRC No. 2415 of 2006, of robbery with violence, contrary to section 295, as read with section 296(2), of the Penal Code, Cap 63, Laws of Kenya. He was sentenced to death. He filed an appeal, in Busia HCCRA No. 41 of 2009, against both conviction and sentence. The conviction was affirmed, but the death sentence was reduced to life imprisonment.
2. He has now come back, by the instant application, which is undated, seeking further review of sentence, on a number of grounds, including the sentences imposed running concurrently, and section 333(2) of the Criminal Procedure Code, Cap 75, Laws of Kenya, being considered. He, apparently, did not file an appeal, at the Court of Appeal, against the judgement in Busia HCCRA No. 41 of 2009.
3. The issues that the applicant raises should have arisen in his appeal in Busia HCCRA No. 41 of 2009. He cannot come back to the High Court to re-litigate his appeal, or to urge matters that he ought to have argued in that appeal. The High Court is functus officio on those matters.
4. I do not have jurisdiction to do that which he invites me to do. He should be pursuing parole and clemency under the exercise of the prerogative of mercy, which are only available from the Executive branch of government.
5. The result is that the application before me, which is undated, is without merit. I hereby dismiss it. This file shall be closed. The Deputy Registrar shall cause a certified copy of this ruling to be made



available to the applicant, through the officer commanding the prison where he is serving sentence.
Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 17TH
DAY OF OCTOBER 2025.**

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Mr. Victor Oduor Ouma, the applicant, in person.

Advocates

Mr. Tony Onanda, instructed by the Director of Public Prosecutions, for the respondent.

