

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUSIA
MISCELLANEOUS CRIMINAL APPLICATION NO. E036 OF 2025

SAMUEL WAFULA ODUOR.....APPLICANT
VERSUS
REPUBLIC.....RESPONDENT

RULING

1. The applicant herein had been convicted, in Busia CMCCRC No. 1647 of 2014, 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. 17 of 2015, against both conviction and sentence, which was dismissed. The death sentence was later commuted to life imprisonment.
2. He avers that he had lodged a further appeal to the Court of Appeal, but to date, he has not received communication, from the Court of Appeal, on its fate.
3. He has now come back, to the High Court, by the instant application, dated 3rd July 2025, seeking reduction of sentence, on grounds of having been sufficiently rehabilitated.
4. I do not have jurisdiction to do that which the applicant invites me to do. The High Court is *functus officio*, having disposed of the appeal in Busia HCCRA No. 17 of 2015. 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, dated 3rd July 2025, 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. Samuel Wafula Oduor, the applicant, in person.

Advocates

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