



**Bori v Republic (Miscellaneous Criminal Application E007 of 2025)
[2025] KEHC 17095 (KLR) (19 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17095 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
MISCELLANEOUS CRIMINAL APPLICATION E007 OF 2025**

**RL KORIR, J
NOVEMBER 19, 2025**

BETWEEN

DAVID MUGENDI BORI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. David Mugendi Bori (Applicant) was charged in Chuka High Court Criminal Case No. 8/2015 (formerly Meru Criminal Case No. 35/2012) with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. He was tried and convicted by Mabeya J. who also sentenced him on 15th September 2016 to suffer death as provided by law.
2. The Applicant subsequently filed Misc. Criminal Application No. E001/2020 to be resented following the celebrated Muruatetu decision of the Supreme Court. His Petition was allowed by Gitari J. who conducted a re-sentencing hearing and subsequently sentenced him on 24th January 2021 to serve 45 years' imprisonment with effect from the date of arrest and pre-trial custody being 25th April, 2012.
3. Subsequently, the Applicant filed the present Application dated 21st January, 2025 seeking a further reduction of the 45 year imprisonment.
4. He stated that the sentence was too harsh and excessive.
5. In undated submissions received in court on 16th September, 2025 the Applicant urged that since he was in his 40's a sentence of 45 years would confine him to prison to the age of 80 years. He submitted further that he was remorseful and sufficiently rehabilitated. That he had no one to take care of his family and his long prison sentence would ruin their future. He prayed for a second chance.



6. The Application was opposed by the Respondent through submissions dated 22nd September, 2025. The Respondent urged that the court had exhausted its jurisdiction having re-sentenced the Applicant to 45 years' imprisonment.
7. I have considered the Application and rival submissions aforesated. The only issue is whether this court has the jurisdiction to review the sentence meted out to the Applicant by the same court, differently constituted.
8. It is my view that this court has no jurisdiction to revisit the sentence imposed by a judge of concurrent and equal jurisdiction.
9. In resentencing the Applicant, Gitari J. called for a probation report and received the mitigation of the Applicant. She arrived at a considered sentence. It is my finding that this court having rendered itself was now functus officio and the Applicant's recourse was to the Court of Appeal.
10. The Application is not merited. It is dismissed.
Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 19TH DAY OF NOVEMBER, 2025.

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R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Applicant acting in person and Ms Rukunga for the State; Muriuki (Court Assistant).

