



**Mwangi v Republic (Criminal Miscellaneous Application E005 of 2025)
[2025] KEHC 17697 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17697 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL MISCELLANEOUS APPLICATION E005 OF 2025
WM KAGENDO., J
NOVEMBER 27, 2025**

BETWEEN

PETER KINGORI MWANGI APPLICANT

AND

THE REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. He was convicted and sentenced to forty (40) years' imprisonment by Lady Justice Odero. He appealed to the Court of Appeal where his appeal on conviction was dismissed, but the sentence was substituted with a sentence of death.

He thereafter filed Petition No. 77 of 2018 before the High Court seeking a review of the sentence. Justice Ogola reviewed the sentence from death to thirty-five (35) years' imprisonment.

2. In *Daniel Otieno Oracha v Republic* [2019] eKLR, Aburili J emphatically addressed the issue of jurisdiction and abuse of process. In paragraphs 12–19 of the judgment, the learned Judge held that a High Court judge cannot review, vary or set aside a decision of another judge of concurrent jurisdiction, and that to attempt to do so would amount to sitting on appeal. The Court further reiterated the principle in *Owners of the Motor Vessel "Lillian S" v Caltex Oil (Kenya) Ltd* [1989] eKLR that without jurisdiction a court must "down its tools."

Analysis

3. I have considered the application, the supporting affidavit and the State's response. The single issue for determination is whether this Court has jurisdiction to review a sentence imposed by a judge of concurrent jurisdiction.



4. It is trite that the High Court cannot review, vary or set aside the sentence imposed by another judge of equal jurisdiction once the matter has been determined. This position arises from the doctrine of stare decisis and the hierarchical structure of the courts, which safeguard consistency, orderliness and finality in litigation.
5. In *Republic v Karisa Chengo & 2 Others* (2017) eKLR, the Supreme Court affirmed that a High Court judge lacks jurisdiction to revisit or alter a sentence imposed by another High Court judge unless through a statutory review mechanism or an appeal to a higher court.
6. Likewise, in *Joseph Nduvi Mbuvi v Republic* (2019) eKLR, the Court of Appeal reiterated that no High Court judge may sit on appeal over the decision of a judge of concurrent jurisdiction, as doing so would undermine judicial consistency and certainty.
7. In the circumstances, the Applicant's request for revision of sentence is untenable. Entertaining such an application would amount to sitting on appeal against a High Court decision, contrary to Article 164(3) of *the Constitution*, which vests appellate jurisdiction in the Court of Appeal.
8. Accordingly, I find the Notice of Motion dated 31st January 2025 to be devoid of merit. It is hereby dismissed.
9. Orders accordingly.

DELIVERED, DATED AND SIGNED AT MOMBASA THIS 27TH DAY OF NOVEMBER 2025.

Ruling delivered through the Microsoft Teams online platform.

WENDY KAGENDO MICHENI JUDGE

In the presence of:

...The Applicant

...Mr. Sirima for the State

...Ms. Bebora – Court Assistant

SIGNED BY/FOR:

HON. LADY JUSTICE WENDY MICHENI

THE JUDICIARY OF KENYA.

