

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NYERI**  
**CRIMINAL REVISION E135 OF 2025**

**JOHN MWANIKI JURU .....**  
**APPLICANT**

**VERSUS**

**THE REPUBLIC .....**  
**RESPONDENT**

**RULING**

1. The Appellant was charged with murder and convicted to serve 40 years' imprisonment. He has made an application that the sentence is harsh. He was convicted of murder and sentenced by this court. There is again a matter dealt with by this court as reported in **Republic v John Mwaniki Njiru [2019] KEHC 10848 (KLR)**. There is a pending Appeal being COA CRA 7/2019.
2. Even if there was no Appeal, this court has no jurisdiction ***ratione materiae*** to review the decision on sentences of the High Court pursuant to Article 165 (6) and 165 (7) of the Constitution.
3. The court cannot assume jurisdiction it does not have. In the case of **Samuel Kamau Macharia & another v Kenya**

**Commercial Bank Limited & 2 others [2012] eKLR**, the supreme court stated as doth: -

This Court dealt with the question of jurisdiction extensively in, In the Matter of the Interim Independent Electoral Commission (Applicant), Constitutional Application Number 2 of 2011. Where the Constitution exhaustively provides for the jurisdiction of a Court of law, the Court must operate within the constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation. Nor can Parliament confer jurisdiction upon a Court of law beyond the scope defined by the Constitution. Where the Constitution confers power upon Parliament to set the jurisdiction of a Court of law or tribunal, the legislature would be within its authority to prescribe the jurisdiction of such a court or tribunal by statute law.”

4. Having finished the question before it, the court is now functus officio. The Supreme Court of Kenya in **Raila Odinga -Vs- Iebc & 3 Others** Petition No. 5 Of 2013 cited with approval the following passage from The Origins of the Functus Officio Doctrine with Specific Reference to its Application in Administrative Law by Daniel Malan Pretorious: -

**...The *functus officio* doctrine is one of the mechanisms by means of which the law gives expression to the principle of finality. According to this doctrine, a person who is vested with adjudicative or decision-making powers may, as a general rule, exercise those powers only once in relation to the same matter...The [principle] is that once such a decision has been given, it is (subject to any right of appeal to superior body or functionary) final and conclusive. Such a decision cannot be reviewed or varied by the decision maker...**

5. It is a legal and constitutional obligation of any court, from the basic-level to the highest level, to preserve and protect the *adjudicatory forum of governance*, and to uphold decorum and integrity in the scheme of justice-delivery. It follows that the court's jurisdiction, in oversight of the question of conscientious and dignified management of the judicial process, and in safeguarding the scheme of the rendering of justice, will not be exhausted until the court is satisfied and it declares as much. The court does not have the power to interrogate a matter in the court of appeal. In the circumstances, the court shuts its doors.

6. In the circumstances, the application dated 20/6/2025 is struck out.

**Determination**

7. The upshot of the foregoing, I make the following orders:

- a. The application dated 20/6/2025 is struck out.
- b. The file is closed.

**DELIVERED, DATED and SIGNED** at **Nyeri**, virtually on this **19<sup>th</sup>** day of **January, 2026**. Judgment delivered through Microsoft Teams Online Platform.

**KIZITO MAGARE**  
**JUDGE**

**In the presence of: -**

Pro se Appellant

Ms Kaniu for the Respondent

Court Assistant - Michael