

REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL PETITION E005 OF 2025

DANIEL NDEGWA WACHIRA
APPLICANT

VERSUS

THE REPUBLIC
RESPONDENT

RULING

1. The applicant was charged with murder contrary to section 203 as read with Section 204 of the Penal Code in is HCCRC 12 of 2015. The judgment is reported as Republic v Daniel Ndegwa Wachira [2022] eKLR. The court found that the offence of murder has been proved beyond any reasonable doubt, and the accused is hereby convicted of the said offence on 3.03.2022.

2. The applicant filed two other applications Misc. E024 of 2023 and E019 of 2022. In the earlier case, this court rejected the application for review. In the latter case, the application was for leave to appeal out of time. The same was allowed on 9.11.2022. There appears to have been a withdrawal on 22.2.2023. There was nothing to withdraw.

3. The petition is a disguised appeal to a court of a coordinate jurisdiction. The court has no jurisdiction to do so. In the

case of **Samuel Kamau Macharia & another v Kenya Commercial Bank Limited & 2 others [2012] eKLR,**

The supreme court stated as follows: -

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. After rejecting the first matter, the court cannot now arrogate to itself the duty of hearing an appeal to itself. The court has no jurisdiction to do so. in the end the application is rejected.

Orders

5. The upshot of the foregoing, I make the following orders:
 - a. The petition is accordingly struck out.

b. The file is closed.

DELIVERED, DATED and SIGNED at **Nyeri**, virtually on this **19th** 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