



**Ondieki v Director of Public Prosecutions (Criminal Miscellaneous Application
E025 of 2025) [2026] KEHC 793 (KLR) (21 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 793 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL MISCELLANEOUS APPLICATION E025 OF 2025**

**TW CHERERE, J
JANUARY 21, 2026**

BETWEEN

GEOFFREY OBWOGE ONDIEKI APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

RULING

1. Before the Court is an undated Notice of Motion by the Applicant, inviting this Court to revisit and interfere with the sentence he is currently serving following his conviction for the offence of robbery with violence contrary to section 296(2) of the Penal Code.
2. The Applicant's criminal process is not in dispute. He was tried and convicted by the Senior Resident Magistrate's Court at Keroka in Criminal Case No. 273 of 2006 and sentenced to death. His appeal to the High Court at Kisii in High Court Criminal Appeal No. 156 of 2006 was dismissed. A further appeal to the Court of Appeal in Criminal Appeal No. 20 of 2008 (Kisumu) resulted in the conviction being upheld, with the sentence of death set aside and substituted with a sentence of life imprisonment, which sentence the Applicant is presently serving.
3. Subsequently, the Applicant approached this Court by way of Nyamira High Court Petition No. 5A of 2019, seeking re-sentencing on the basis of the decision in Francis Karioko Muruatetu & another v Republic. That petition was heard and dismissed, the Court declining jurisdiction to revisit a sentence imposed by the Court of Appeal.
4. The present application raises, in substance, the same grievance and seeks the same relief previously declined. It invites this Court to re-open sentencing notwithstanding a final determination by the Court of Appeal and a prior rejection of re-sentencing by this Court.



5. It is trite that this Court's jurisdiction does not extend to the review, variation, or re-sentencing of a sentence imposed by the Court of Appeal. The High Court exercises neither supervisory nor appellate authority over a superior court of record and cannot sit in judgment over its decisions.
6. Once the Court of Appeal pronounced itself on sentence, and this Court subsequently declined re-sentencing in Petition No. 5A of 2019, the matter was conclusively settled. This Court is functus officio.
7. In my considered view, the present application amounts to a collateral and repetitive attempt to re-litigate an issue already finally determined. The invocation of the same jurisprudential basis previously rejected does not clothe this Court with jurisdiction and constitutes an abuse of the court process and offends the principle of finality in litigation.

Disposition

8. For the foregoing reasons, the Court finds that:
 1. It lacks jurisdiction to entertain the application;
 2. The application is an abuse of the court process.
 3. The application is dismissed

DELIVERED AT NYAMIRA THIS 21ST DAY OF JANUARY 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

Applicant - Present

For the DPP - Mr. Chirchir (SADPP)

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