



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**HCCRREV. 239 OF 2024**

**PATRICK MWENDA KAHINDA .....**

**APPLICANT**

**VERSUS**

**REPUBLIC .....**

**RESPONDENT**

**JUDGMENT**

1. The Applicant herein one, Patrick Mwenda Kahinda was initially charged with the offence of Murder contrary to **Section 203 as read with Section 204 of the Penal Code**. Out of a plea bargain process the charge was reduced to Manslaughter, contrary to **Section 202 as read with Section 205 of the Penal Code**.
2. The Applicant pleaded guilty to the offence and during the sentence, the trial Court observed that:-

**“I have considered the fact that accused pleaded guilty to this offence, he is said to be a first offender. The Court takes into account the fact that he is a young man whose family has suffered due to his actions. He has been in remand for about 2 years. However, taking into account the circumstances of the offence, that he was stealing while armed and when caught he did not even withdraw, I hereby sentence him to serve 25 years imprisonment.”**

3. The Applicant dissatisfied with the said conviction and sentence preferred an Appeal in Criminal Appeal Case No. 46 of 2017. Vide a Judgment dated 12<sup>th</sup> April, 2024 the Court of Appeal dismissed the Appeal for want of merit.
4. The Applicant has brought a Notice of Motion before this Court claiming that the trial Court in sentencing him to 25 years imprisonment did not consider the period spent in remand which was from 19/1/2013 to 27/10/2024. The said application is brought under **Articles 27(1) (4) and (5) of the Constitution of Kenya 2010**; and **Section 333(2) of the Criminal Procedure Code**.

5. The Respondent opposed the Application on the ground that this Court lacks jurisdiction to supervise, review or entertain an Appeal from a Court of concurrent jurisdiction.
6. The issue therefore for determination is whether this Court has jurisdiction to entertain the filed Notice of Motion.
7. Before I decide on the said issue, I observe that the Applicant was not truthful when he alleged that the trial Court did not consider the period spent in remand. The Court considered the period of which it said was of almost 2 years, as per the record.
8. On the issue of jurisdiction, it is a settled principle of law that the High Court of Kenya, being a Superior Court established under **Article 165 of the Constitution**, cannot exercise supervisory, appellate, or review jurisdiction over a Court of equal and concurrent status.
9. **Article 165 (6) of the Constitution** expressly confines the supervisory of this Court to Subordinate Courts and to persons, bodies or authorities excising Judicial or quasi-judicial functions, and does not extend to Superior Courts.
10. In the present matter, it is not lost to the Court that an appeal arising from the same subject dispute was duly

preferred to the Court of Appeal of Kenya and was dismissed. That determination, having been rendered by a Superior Court in the Appellate hierarchy, is final and binding unless otherwise set aside in accordance with the law.

11. This Court cannot, under the guise of supervisory or review jurisdiction, reopen, reconsider, or indirectly sit on Appeal over a matter that has been conclusively determined by a Court of concurrent, and of a higher jurisdiction. There need be an end to litigation.
12. Accordingly, and for the foregoing reasons, this Court finds that it lacks jurisdiction to entertain the filed Notice of Motion. It's accordingly dismissed for want of jurisdiction. File is closed.

**DATED AND DELIVERED AT MERU THIS 10<sup>TH</sup> DAY OF MARCH, 2026.**

**S.M. GITHINJI**  
**JUDGE**