



REPUBLIC OF KENYA



KENYA LAW
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**Gikungi v Republic (Criminal Revision E005 of 2025)
[2026] KEHC 5533 (KLR) (23 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5533 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL REVISION E005 OF 2025
HM NYAGA, J
APRIL 23, 2026**

BETWEEN

PATRICK MUTUMA GIKUNGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. By an application dated 3/3/2025, the applicant has sought the following orders
 - a. That his mitigating factors be considered under sections 216 and 329 of the Criminal Procedure Code and a determinate sentence be awarded commensurate to the offence committed.
 - b. Not forgetting the provisions of section 333(2) of the Criminal Procedure Code as the applicant has been in custody since the day of the arrest until now.
2. The applicant case is that he was charged with the offence of murder in Meru High Court Criminal Case Number 83 of 2003.
3. That after full trial, he was convicted and sentenced to the mandatory death sentence on 18/1/2008.
4. That he never appealed to the Court of Appeal.
5. The applicant now makes this application pursuant to the decision in Francis Karioko Muruatetu and Another vs Republic (2017) eKLR.
6. The applicant states that he has now reformed, having embraced the rehabilitation programme offered in prison.
7. The prosecution counsel left the matter to the court.



8. As is usual in such applications or petitions, the court called for records of any other application or petition made by the applicant.
9. It has emerged that the applicant had filed Misc. Criminal Application No. 154 of 2018 seeking similar orders as those in this application. The court record therein indicates that on 14th November 2018, the court (Justice A. C. Mrima) dismissed the petition. The final order of the court was as follows:

“Petition dismissed to pave way to the appeal before the Court of Appeal at Nyeri.”
10. It is thus clear that the court had found that the applicant had a pending appeal before the Court of Appeal, but he is now saying that he never filed any appeal.
11. In light of the finding of the court, and if there is indeed a pending appeal, this court is not seized of jurisdiction to entertain the present application or petition. Unfortunately, the details of the appeal were not stated by the court.
12. In my view, the best way to deal with this matter is to confirm the details of the said appeal and the status thereof before any further orders can be made.
13. To this end, I direct the Deputy Registrar, Meru High Court to liaise with the Deputy Registrar, Court of Appeal to find out if the applicant has a pending appeal and the status.
14. A mention date will be given for further directions.

DATED, SIGNED & DELIVERED AT MERU THIS 23RD DAY OF APRIL, 2026.

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H.M. NYAGA

JUDGE

