

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
HCCR MISC. APPL NO. E038 OF 2024

JAMES KINYUA MURUNGI
APPLICANT

VERSUS

REPUBLIC.....
RESPONDENT

RULING/DIRECTIONS

1. The application before me is dated 22/5/2024 and it seeks the following orders:
 - a. Spent
 - b. That this Honourable court be pleased to grant mitigation and sentence re-hearing.
2. The applicant's case is that he was charged with the offence of murder in Meru High Court Criminal Case No. 48 of 2011. That he was subsequently convicted and sentenced to death. That he did not prefer an appeal to the court of appeal.
3. The applicant states that he has approached this court following the decision of the Supreme Court of Kenya in

Francis Karioko Muruatetu and Another vs Republic (2017) eKLR (Muruatetu 1).

4. Parties were directed to file their respective submissions but none complied.
5. In the cause of drafting this ruling, I noted that the applicant was charged alongside one Consolata Nkomo Murungi. It was further noted that the said Consolata has filed her own application namely: HC. Misc. Application No. 43 of 2020, HCCR. Rev. No. 407 of 2020. Both files are now closed with no orders on sentence.
6. I also noted that although the applicant had been granted leave to file an appeal to the Court of Appeal out of time, he never filed it. This was confirmed by the Deputy Registrar of the Court of Appeal dated 27/5/2025.
7. In view of the contents of the said letter, this court is competent to deal with the application, following the guidelines set out in **Francis Karioko Muruatetu and Another vs- Republic (2021) e KLR (Muruatetu 2).**

8. Even though the offence took place in 2011, a court that is called upon to re-sentence an applicant ought to proceed as it would have done then.
9. To that end, I direct that a re-sentence report be prepared by the Probation office. The same to be done in the next 30 days.

Dated, signed & delivered at Meru this 23rd day of April, 2026.

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H.M. NYAGA
JUDGE