



**Mbiti v Republic (Miscellaneous Criminal Application  
E025 of 2025) [2025] KEHC 8965 (KLR) (30 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 8965 (KLR)

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

**RL KORIR, J**

**MAY 30, 2025**

**BETWEEN**

**JAPHET MUTHEE MBITI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Petitioner Japhet Muthee Mbiti was charged, tried and convicted of the offence of murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. The offence was against one James Kiura Muthee (deceased) committed on 8<sup>th</sup> February 2014 at Kagongogacheke village, Mutino Location, in Meru South District, Tharaka Nithi County.
2. The Petitioner was subsequently sentenced to death. His appeal to the Court of Appeal was heard and determined. In the Judgement the court dismissed his appeal against conviction and set aside the death sentence and substituted it with 20 years' imprisonment.
3. The Petitioner has now approached this court seeking a further alteration of the sentence from imprisonment to probation. In his undated petition received in court on 21<sup>st</sup> February, 2025, he states that he was now an old man aged 65 years and prayed for a second chance to go and take care of his family. He states that he was remorseful for the offence and has now fully rehabilitated.
4. The respondents filed written submissions opposing the petition.
5. At the hearing on 26<sup>th</sup> March, 2025, the Petitioner made oral submissions requesting the court to place him on probation for the remainder of his sentence, which he stated was 2 years. He stated that he had eye problems and was suffering in prison.



6. The Respondent submitted that the sentence of 20 years' imprisonment was legal just and fair and should not be disturbed. That the same was a departure from the prescriptive mandatory sentence under Section 204 of the Penal code.
7. The only issue in this petition is whether this court can overturn a sentence already reviewed by the Court of Appeal. Considered the Petitioner's appeal and reduced his sentence from death to 20 years' imprisonment.
8. The Petition has no legal basis and lacks merit. It is dismissed.
9. Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 30<sup>TH</sup> DAY OF MAY, 2025.**

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**R. LAGAT-KORIR**

**JUDGE**

Ruling delivered in the presence of the Applicant in person at Embu Prison and Ms Rukunga for State; Muriuki (Court Assistant).

