



**Gombe alias Agok & 2 others v Republic (Criminal Miscellaneous Application
E233 of 2024) [2025] KEHC 9285 (KLR) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9285 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E233 OF 2024**

A MABEYA, J

JUNE 30, 2025

BETWEEN

SAMUEL OMONDI GOMBE ALIAS AGOK 1ST APPLICANT

VITALIS OBULA OKENDO ALIAS DAKTARI 2ND APPLICANT

HEZRON OTIENO OKENDO ALIAS OTIS 3RD APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Samuel Omondi Gombe, Vitalis Obula Okendo and Erick Hezron Otieno Okendo ‘the applicants’, were charged before the High Court with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#).
2. Following their trial, they were found guilty, convicted and sentenced to suffer death on 28/3/2017. Their appeal to the Court of Appeal *vide* Kisumu CRA No. 140 of 2017 was determined on 17/5/2023.
3. In its Judgment, the Court of Appeal (Kiage, Tuiyott and Ngugi JJA) observed:-

“The sentence of death set aside and substituted it with imprisonment of 15 years.”
4. On an unspecified date, the applicants took out a Motion on Notice in which they sought that their sentence of 15 years be substituted with a lenient one of non-custodial for the same period.
5. I have considered the record and the applicants’ averments. All I can state is that, the Court of Appeal having rendered itself as it did in its decision of 17/3/2023 in Kisumu CRA No. 140 of 2017, this Court is bereft of any jurisdiction to second guess that Court’s finding.



6. Accordingly, this Court has no jurisdiction to entertain the Motion and hereby dismisses the same.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 30TH DAY OF JUNE, 2025.

A. MABEYA, FCI Arb

JUDGE

