

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
MISCELLANEOUS CRIMINAL PETITION NO. 194 OF 2024
IN THE MATTER OF ARTICLES 3, 10, 22, 23 (1), 25, 27, 28, 29, 50, 159, 165, 258 AND 259
OF THE CONSTITUTION OF THE REPUBLIC OF KENYA
AND
IN THE MATTER OF SECTIONS 25 (1) AND 204 OF THE PENAL CODE CAP. 63 OF THE
LAWS OF KENYA
AND
IN THE MATTER OF SECTIONS 216 AND 329 OF THE CRIMINAL PROCEDURE CODE CAP.
75 OF THE LAWS OF KENYA
AND
ALL OTHER ENABLING POWERS AND PROVISIONS OF THE LAW

JOHN MWATHI MAJURIA PETITIONER

=VERSUS=

REPUBLIC RESPONDENT
BEING A PETITION FOR REHEARING OF
JOHN MWATHI MAJURIA'S SENTENCE EMANATING FROM MERU CRIMINAL CASE NO.
09 OF 2012
CERTIFICATE OF URGENCY

I, MWAURA KELVIN KARUGA, an advocate of this Honourable Court do hereby certify this Application as urgent for the Reason that:

1. The Petitioner has been incarcerated for a total of 12 years in prison.
2. The Petitioner recognizes the grief and anguish occasioned by his offence and has expressed repentance and remorse for his actions.
3. The Petitioner deserves leniency on the basis of his continued remorse for the offence committed.
4. There are mitigating, favorable and positive post-conviction records and evidence indicating that the Petitioner has reformed and rehabilitated.
5. This Honourable Court should consider all sentencing objectives in totality, of which reform and rehabilitation are essential intents, not solely retribution or vengeance.
6. The Petitioner has a right to a fair trial and to the benefit of the least severe of the prescribed punishments for an offence.

AND UNLESS the Orders sought herein are granted, the Petitioner/Applicant will continue to suffer irreparable damage loss and injury,

DATED at MERU this.....26th day of November 2025

MWAURA KELVIN KARUGA & ASSOCIATES ADVOCATES
ADVOCATES FOR THE PETITIONER
NAIROBI
P.O BOX 00200-57238

DRAWN & FILED BY

M/S MWAURA KELVIN KARUGA & ASSOCIATES ADVOCATES
P.O BOX 00200-57238

NAIROBI

EMAIL: Mwaurakelvin6@gmail.com

TEL:0797-117169, 0102-342254

TO BE SERVED UPON

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION,
P.O BOX 551,

MERU

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

MISCELLANEOUS CRIMINAL PETITION NO. 194 OF 2024

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09 OF 2012

NOTICE OF MOTION

/PURSUANT TO ARTICLES 22, 23, 50, AND 165 OF THE CONSTITUTION OF KENYA, SECTION
333(2) AND 354 (3) (B) OF THE CRIMINAL PROCEDURE CODE CAP 75 AND ALL OTHER
ENABLING PROVISIONS OF THE LAW

TAKE NOTICE that this Honourable court shall be moved on the day
of 2025 at 9.00 O'clock in the forenoon or so soon thereafter as
counsel for the Applicant may be heard for ORDERS THAT; -

1. This Honourable Court be pleased to order that the Petitioner be resentenced to a term of years that would entitle him to immediate release or to a merciful and/or lenient determinate period of incarceration.
2. This Honourable Court be pleased to issue such orders as may be fair and just to secure the Petitioner's constitutional rights.

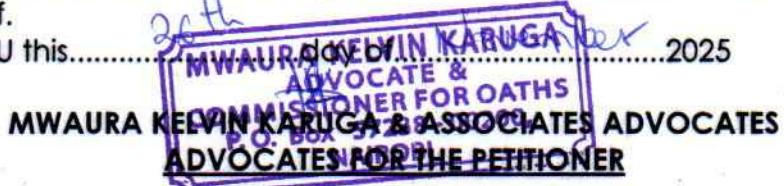
WHICH APPLICATION IS BASED ON THE GROUNDS THAT; -

1. The Petitioner played a secondary role in the actions that resulted in his arrest, conviction, and sentence.
2. The Petitioner is a first-time offender.
3. The Petitioner has been incarcerated for a total of 12 years in prison.
4. The Petitioner recognizes the grief and anguish occasioned by his offence and has expressed repentance and remorse for his actions.
5. The Petitioner deserves leniency on the basis of his continued remorse for the offence committed.

6. The Petitioner has a good report from the prison officers detailing that he is well behaved and relates well with other prisoners and officers, and that he is of good disposition, nature, and character.
7. There are mitigating, favorable and positive post-conviction records and evidence indicating that the Petitioner has reformed and rehabilitated.
8. This Honourable Court should consider all sentencing objectives in totality, of which reform and rehabilitation are essential intents, not solely retribution or vengeance.
9. The Petitioner has a right to a fair trial and to the benefit of the least severe of the prescribed punishments for an offence.
10. Further, the Petitioner has a right, if convicted, to appeal to, or apply for review, as prescribed by law.
11. This Honourable Court has jurisdiction to determine the question whether the Petitioner's rights have been denied, violated, infringed or threatened.
12. This Honourable Court has original jurisdiction powers pursuant to section 354 of the Criminal Procedure Code, Article 22 (1), 23 (1), 159 (2), 165 (3) (a) (b) and (d), and 258 (1) of the Constitution of Kenya to determine matters of this nature, and based on the findings of the Supreme Court in the case of Francis Karioko Muruatetu & Another Versus Republic No. 5 of 2015, the Petitioner has approached the Court asking that of necessity, his mitigation be taken into consideration and subsequently his prayers be allowed in favour for resentencing.
13. The Petitioner has reconciled with the family of the Deceased. This is evidenced by the help the Deceased's family provided to the Petitioner's family in 2024. The Deceased's family who are the Petitioner's family's neighbors, supported the Petitioner's family during a house-building exercise, in Tharaka Nithi.
14. The Petitioner has children, a 15 year old daughter, who has recently been transferred to a far-off school, an 18 year old son and another 24 year old daughter, who will be waiting for him upon his release. The transfer of the Petitioner's daughter will make visits in the future difficult due to the time it takes to travel and the financial constraints of the Petitioner's family.
15. Based on the findings of the Supreme Court in the case of Francis Karioko Muruatetu & Another Versus Republic No. 5 of 2015, the Petitioner has approached the Court again, asking that of necessity, his mitigation be taken into consideration and subsequently his prayers be allowed in favour for resentencing.

WHICH APPLICATION is supported by the annexed affidavit of **JOHN MWATHI MAJURIA** the Petitioner herein, and upon such other grounds to be adduced at the hearing hereof.

DATED at MERU this.....



DRAWN & FILED BY

M/S MWAURA KELVIN KARUGA & ASSOCIATES ADVOCATES

P.O BOX 00200-57238

NAIROBI

EMAIL: Mwaurakelvin6@gmail.com

TEL:[0797-117169](tel:0797-117169), 0102-342254

TO BE SERVED UPON

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION],

P.O BOX 551,

MERU

*"If any party served does not appear at the time and place above-mentioned,
such order will be made and proceedings taken as the Court may deem just and
expedite to grant".*

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JOHN MWATHI MAJURIA PETITIONER

=VERSUS=

REPUBLIC RESPONDENT
BEING A PETITION FOR REHEARING OF

JOHN MWATHI MAJURIA 'S SENTENCE EMANATING FROM MERU HIGH COURT
CRIMINAL CASE NO. 09 OF 2012

SUPPORTING AFFIDAVIT

I, JOHN MWATHI MAJURIA, an inmate at Meru Main Prison within the Republic of Kenya do hereby make oath and state as follows; -

1. THAT I am the Petitioner herein and hence competent to swear this affidavit.
2. THAT I have been incarcerated for a total of 12 (twelve) years in prison.
3. THAT I believe that I have paid dearly for my actions and I am deserving of a fair and determinate sentence.
4. THAT I have had a long time to reflect upon my life, my actions and the consequences thereof, and have learnt from my past experiences.
5. THAT I am a first-time offender and truly repentant.
6. THAT I am 45 years old.
7. THAT I recognize the grief and anguish that was occasioned by my offence on the victim and the victim's family, and I am repentant and remorseful for my actions.
8. THAT on 4th February 2012 at about 1:00 a.m., while I was at home with my wife at Matakiri Location, I heard a loud bang on my door. Three unknown people forcefully broke into my house. I struggled with one of them, whom I later recognized as Mutwiri Ntarorii. I tried to keep the door locked, but when I could no longer hold back the intruders, I let go and managed to escape. During the struggle, I heard my wife scream and then suddenly fall silent. I immediately

went to the AP camp where I reported the incident. I wish to state that I played no role in, and did not participate in, the murder of my wife, the deceased, Rebecca Kagendo

9. **THAT** at the time of my initial incarceration I was [insert age] and I am now 45 years old. If released, I will not engage in any criminal activities, desire to lead a law-abiding life and be a role model to many people across different ages not to engage in crime.
10. **THAT** I have an excellent report from the prison officers detailing that I am well behaved, very responsible, dutiful, respectful, that I relate well with other prisoners and officers, and that I am of good disposition, nature and character. (*Attached hereto is a recommendation letter I.R.O MER/59/2019/LS JOHN MWATHI MAJURIA from the officer in-charge Meru Main Prison dated 17th July 2024 marked 'JMM-1' indicating the same.*)
11. **THAT** I have spiritually transformed and have embraced Jesus Christ in my life. I am an ordained minister of God dispensing pastoral duties within the inmate community in the Prison.
12. **THAT** I have been trained as an evangelist. (*Attached are a copy of my certificate in theology, marked JMM-2 respectively, speaking to my reformed spiritual aptitude post-conviction.*)
13. **THAT** I have obtained fellowship, spiritual nourishment and guidance at the gospel faith messenger ministry where I completed the gospel of St. John and book of Ephesians Bible correspondence course.
14. **THAT** there are mitigating, favorable and positive post-conviction records and evidence which serve to indicate that I have reformed and rehabilitated.
15. **THAT** I have rehabilitated and industriously developed myself and obtained certification in tailoring Grade 3-1 and certificate in theology. (*Attached hereto are copies of my National Trade test certificate grade II certificate showing that I have passed a tailoring grade II test trade in August 2014, and tailoring grade III trade test in December 2013 and Certificate in trade test Grade III in dress-maker -first Class in August 2022 attesting to the aforesaid).*)
16. **THAT** I have also qualified and been awarded a Diploma by Discover Bible School on 13th September 2025. (*Attached hereto is a true Copy of my Diploma by Discover Bible School on 13th September 2025.*)
17. **THAT** if released, I will go to Ntatuvya village Tharaka North, kathangacini town, at the junction of Katiriku primary school, at Majuria homestead, where my relatives Mr. Gabriel Mutiria Majuria, my elder Brother, and Harriet Karigu who live in the same location, and I will live a law-abiding life, raising my children and working as a Tailor and Theologian.
16. **THAT** I have reconciled with the Deceased's family, evidenced by the help the Deceased's family provided to my family in 2024. The Deceased's family who are my family's neighbors, supported my family during a house- building exercise, in Tharaka Nithi, which is evidenced by the Supporting Affidavit of **BENJAMIN CHENGA**, my son, sworn on 23rd October 2025.
17. **THAT** I am a father of three children: a daughter aged 15 years who has recently been transferred to a distant school, a son aged 18 years, and a daughter aged 24 years, all of whom continue to depend on me and who will be awaiting my release.

18. **THAT** I regularly speak/communicate with my family and they regularly visit me in prison.
19. **THAT** The transfer of my daughter will make visits in the future difficult due to the time it takes to travel and the financial burden this will put on my family.
20. **THAT** I feel unending fear, agitation, and a sense of impending disaster, severe anxiety and panic episodes as a result of my unclear future, extended solitude, and the looming threat of death, severe melancholy and a sense of hopelessness, together with overwhelming sadness, helplessness, and despair.
- 23 **THAT** this Honourable Court should consider all sentencing objectives in totality, of which reform and rehabilitation are essential goals, not solely retribution or vengeance.
- 24 **THAT** I pray for a resentencing determination that would culminate in my immediate release or in the alternative, to a compassionate determinate period of imprisonment in light of all the foregoing mitigating factors and/or grounds.
- 25 **THAT** I make this affidavit in utmost good faith in support of the application now before this Honourable Court to grant my immediate release or in the alternative, grant me a compassionate determinate period of imprisonment.
- 26 **THAT** what is deponed herein is true to the best of my knowledge, information and belief.

SWORN at MERU this *26th* day of November 2025
BY THE SAID]
]
JOHN MWATHI MAJURIA]
]
BEFORE ME]
ADVOCATE]
COMMISSIONER FOR OATHS]
COMMISISONER FOR OATHS

P.O. Box 61034-00200, NAIROBI

DRAWN & FILED BY

M/S MWAURA KELVIN KARUGA & ASSOCIATES ADVOCATES,
P.O BOX 00200-57238,
NAIROBI

**MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION
STATE DEPARTMENT FOR CORRECTIONAL SERVICES
KENYA PRISONS SERVICE**

Telephone: 020 2417362
E-mail: prisonmerumain@gmail.com

When replying please quote



THE OFFICER IN-CHARGE,
MERU MAIN PRISON,
P.O.BOX 233 - 60200
MERU.

Ref. No: MER/PRIS/8/4/VOL.VI/469

Date: 17TH JULY 2024

IN THE HIGH COURT OF KENYA AT MERU,
P.O.BOX 118,
MERU

RE: RECOMMENDATION LETTER I.R.O. MER/59/2019/LS JOHN MWATHI MAJURIA

Your attention is drawn to the above mentioned person.
He has been in our institution for the last 12 years, having been admitted on 12TH February 2012. JOHN was deployed to our industry sections where he acquired several grades e.g.-

1. Tailoring Grade 1, 2 & 3 Certificates.

Since his incarceration he has embraced fully the rehabilitation programs being offered in prison, this can be attested by the number of certificates he has managed to acquire while in prison. They are as follows:

1. The gospel faith messenger Certificate (Bible correspondence Course).
2. Phillip acts Bible study program certificate (Bible league International).
3. Cheti cha masomo ya Biblia (lamp & light of kenya).

He is of good value to staff and inmates, his discipline is outstanding.

Please accord him necessary assistance that he may require.


**P. GICHANE (S.P)
FOR-OFFICER IN- CHARGE,
MERU MAIN PRISON**

This is the exhibit marked... **JNM-1**
Referred to in the annexed
Affidavit of **John Mwathi Majuria**
declaration
Sworn before me this
Declared **November 25,**
day of **2024**
at Nairobi

Commissioner for Oaths

DISCOVER BIBLE SCHOOL

This is to certify that I am - 2
referred to as the annexed
Affidavit of...
declaration

Sworn before me this 26th
day of November 2025
at Nairobi

Commissioner for Oaths



voice of prophecy

This is to certify that

John Mwathi Majuria

has completed all the Discover Bible School Lessons covering the following topics:

- | | | |
|------------------------------|--------------------------|---------------------------|
| 1. Inspiration of the Bible | 5. Sure Word of Prophecy | 9. The State of Man |
| 2. Fall & Restoration of Man | 6. The way of Truth | 10. Health and Temperance |
| 3. Salvation | 7. God's Law | 11. Jesus Second Coming |
| 4. Life & Teachings of Jesus | 8. Stewardship | 12. Heaven and New Earth |

And is awarded this

Diploma



Brockout
VOP Director / Speaker

13/9/2025
Date

Brockout
Instructor

AFFILIATED WITH
The Voice of Prophecy International Radio Broadcast and Discover Bible School

This is the affidavit marked JMM
Referred to in the annexed
Affidavit of John Muath Majuria NATIONAL
declaration
Sworn before me this 26th
Declared November 20th
day of November 20th
at Nairobi
Commissioner for Oaths

Adult

PHILIP ACTS 8

Certificate

to:

John Muath Majuria

who has successfully completed the

PHILIP ACTS 8 BIBLE STUDY PROGRAM

"God's Word is alive and working. It is sharper than the sharpest sword and cuts all the way into us. It cuts deep to the place where the soul and the spirit are joined. God's Word cuts to the center of our joints and our bones. It judges the thoughts and feelings in our hearts."

Hebrews 4:12 (ERV)

Issued this 26th day of April 2019



Bible League International

TT2/TAIL/14/ 0006107



TRAP-2
John Majuria

This is the exhibit marked...
referred to in the annexed
Affidavit of...
declaration
Sworn before me this
Declared overleaf 20
day of
at Nairobi
Commissioner for Oaths

Commissioner for Oaths

MINISTRY OF LABOUR

NATIONAL INDUSTRIAL TRAINING AUTHORITY

NATIONAL TRADE TEST CERTIFICATE

GRADE II

This is to certify that JOHN MWATHII MAJURIA
whose photograph appears on this certificate has passed a
TAILORING GRADE II Trade Test.

Tested at MERU PRISON testing centre, AUGUST 2014.

Registration No. 20146661



John Mwathii Majuria

Director General - NITA

Trade Testing Officer

TT1/T-TAIL/19/0004470



Surat-2
One or two years ago in the month of October I crossed to the dominions of... Johnnaburhia of... Sikkim before me this man declared he had received 2000 rupees from the Nainital

**STATE DEPARTMENT OF LABOUR
NATIONAL INDUSTRIAL TRAINING AUTHORITY**

National Trade Test Certificate
Grade I

This is to certify that MAJURIA JOHN MWATHI
Whose photograph appears on this certificate has passed a TAILORING Grade I
Trade Test.

Tested at MERU PRISON testing centre, Aug-19.

Registration No. 18791-19 AUG



HITA / 174 / 194



Director General

Distractor Industrial Training



NTIA NITRA

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CS CamScanner

Cheti Cha Masomo Ya Biblia

This is the extract quoted
referred to in the annexed
affidavit of John...
declaration before me this
26th November 2016
Sworn before me this
day of November 2016
at Nairobi


JOHN MWATHI MAJURIA

Sii nukufuhifisha Kwamta

Ane kamilishaa



Kiwango Cha Kwanza

Cha masomo ya Biblia ya Lamp & Light Kwa njia ya Posta.

Pongezzi Umesemantisha "hatua ya kwanza" ya masomo ya Biblia ya vivango vime, kifyo twayamini kwaa itakusaidia kwenenda katika maista mayya. Tumatumaini umefuhikua kifyo hatua ya kwanza katika imani na kumpokeza Kristo kama Mvokozi wa kifo.

"Unapombelea kuchafuifua "hatua" zaidi katika masomo hiiyaa, tunamini kwamta imani yako itaongezeka na utatembea karihu nje kila sifur... nifurimenda mimi, kama yeye difuoye katika minu, twashirikana sisi kwaa sisi". (1 Noflama 1:7)

OCT / 4 / 2016

Tarehe

Lamp & Light of Kenya S.L.P 9602 Lanet, Kenya, 20112



Mwafimu

This is to certify that I have been referred to in the annexed affidavit of John...
declaration sworn before me on the 20th day of May at Nairobi.

The Gospel Faith "Messenger" Ministry



This is to certify that JOHN MWATHI MAJURIA
Embu KENYA E.A. Has completed The
of St. John Bible Correspondence

On behalf of:
The Gospel Faith Messenger
P O Box 5601 Frankton
Hamilton 3242, New Zealand
Founder / Director: Rodney W. Francis

2017

Dated:

Average Marks:-

Hamilton 3242, New Zealand
Founder / Director: Rodney W. Francis

re: Jackie H. Wolgers

The Gospel Faith Messenger

This is to certify that

JOHN MWATHI MAJURIA

Embu Kenya E.A. Has completed The Book of
Ephesians Bible Correspondence Course.

Dated on the _____ day of the month of _____ in the year 2017

Average Marks:

Jackie H. Hodges

On behalf of
The Gospel Faith Messenger
P O Box 5601 Frankton
Hamilton 3242, New Zealand
Founder/Director: Rodney W. Francis



This is the extract marked...
Referred to in the annexed affidavit of...
Sworn before me this 26th
day of November 2017
at Nairobi

Commissioner for Oaths

169
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TT3/TAIL/13/ 0012477



MINISTRY OF LABOUR

NATIONAL INDUSTRIAL TRAINING AUTHORITY
NATIONAL TRADE TEST CERTIFICATE
GRADE III

Tailor
This is to certify that the annexed certificate
Referred to in the annexed certificate
A affidavit of..... 26
Declaration
Sworn before me this 25
Declared 15 December 2013
Day of.....
at Nairobi
Commissioner for Oaths

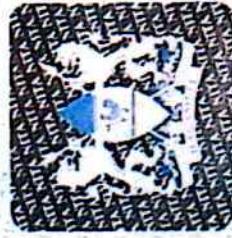
This is to certify that **JOHN MWATHI MAJURIA**
whose photograph appears on this certificate has passed a
TAILORING GRADE III Trade Test.

Tested at MERU PRISON testing centre, DECEMBER 2013.

Registration No. 201345329



201345329



[Signature]

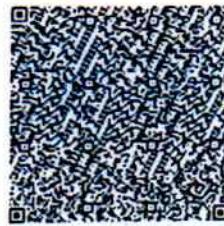
Trade Testing Officer

Director General – NITA

John Mwathi Majuria
I, the person marked...
line in the annexed photograph
registered to in the name of...
Affidavit of...
declaration
sworn before me this 20th
declared under date 20th
day of August 2022
in Nairobi
Commissioner for Oaths



TT3/T-DM/22/0003798



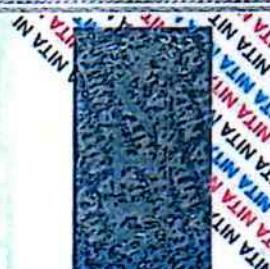
STATE DEPARTMENT OF LABOUR
NATIONAL INDUSTRIAL TRAINING AUTHORITY

National Trade Test Certificate
Grade III

This is to certify that JOHN MWATHI MAJURIA
whose photograph appears on this certificate has been awarded Trade test Grade III
in DRESS MAKER - FIRST CLASS.

Tested at MERU PRISON, AUGUST 2022.

Registration No. 35274-22AUG



Director General



Director Industrial Training
& Skills Development

AIS/P 2341877 08/23

REPUBLIC OF KENYA
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CAP. 75 OF THE LAWS OF KENYA
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=VERSUS=

REPUBLIC RESPONDENT
BEING A PETITION FOR REHEARING OF
JOHN MWATHI MAJURIA'S SENTENCE EMANATING FROM MERU CRIMINAL
CASE NO. 09 OF 2012

SUPPORTING AFFIDAVIT

I, **BENJAMIN CHENGA**, a resident of Kathangasheni, Tharaka County, within the Republic of Kenya do hereby make oath and state as follows;

1. **THAT** I am a male adult of 22 years, therefore competent to swear this affidavit.
2. **THAT** I am the son of Mr. John Mwathi Majuria, the Petitioner herein.
3. **THAT** my father has five (5) children including me namely Purity Kendi about 28/29 years; Catherine Kabeni about 25 years; Fridah Kaguni about 20 years and Faith Kinya, 16 years.
4. **THAT** my father was arrested when I was still very young. Following his arrest and subsequent incarceration, our family's financial situation deteriorated significantly. My mother struggled to provide for us, as a result, my siblings and I were forced to drop out of school.

5. **THAT** due to our father's imprisonment, my siblings and I were unable to continue with our education for lack of school fees. Purity, the firstborn, dropped out in Class Eight and got married; Catherine, the second born, completed Form Four but could not proceed to college or university; I dropped out in Class Eight and Fridah, the fourth born, left school in her second year of high school.
6. **THAT** the deceased was our neighbour, her marital home was near ours. Although we are not on speaking terms with the deceased's husband and some of his relatives, I have maintained a cordial relationship with the deceased's son, who is my good friend.
7. **THAT** at some point, my mother visited the home of the deceased's parents and spoke to the deceased's father in an effort to seek reconciliation on behalf of my father. She was informed that the family would address the issue in court. However, when the matter came up in court, the deceased's family denied having had any such discussion.
8. **THAT** I am aware my father deeply regrets the events that led to his incarceration, and as a family, we have forgiven him and are ready to support his reintegration into society.
9. **THAT** upon his release, my father will reside with me and my mother at our home in Kathangasheni, Tharaka County. I am willing and prepared to take care of him and assist him to rebuild his life and reintegrate into the community.
10. **THAT** I swear this affidavit in utmost good faith in support of the application currently before this Honourable Court, seeking the release of my father, alternatively, the granting of a compassionate determinate period of imprisonment.
11. **THAT** the contents herein are true and accurate to the best of my knowledge, information and belief.

SWORN at NAIROBI

This ^{26th}

November

2025

BY THE SAID

BENJAMIN CHENGA

)

DEPONENT



DRAWN & FILED BY:

MWAIKURA KEVIN KARUGA & ASSOCIATES ADVOCATES
UCHUMI HOUSE, 8TH FLOOR ROOM 8, AGA KHAN WALK NAIROBI, RESOURCE
PLAZA, 2ND FLOOR, SUITE A2, KENOL TOWN; ALONG KENOL - SAGANA - MARUA
HIGHWAY.
P.O. BOX 57238 - 00200,
NAIROBI.