



**Maero v Republic (Miscellaneous Criminal Application E079 of 2024)
[2024] KEHC 11910 (KLR) (27 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11910 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E079 OF 2024
RE ABURILI, J
SEPTEMBER 27, 2024**

BETWEEN

JOSEPH WAMBIA MAERO APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for review of Conviction and sentence from of Siaya SPM's vide Criminal Case No. 590 of 2013 delivered by Hon. J. N. Sani, (SRM) dated 5/3/2014)

RULING

1. The Applicant is Joseph Wambia Maero. He was convicted and sentenced to serve 30 years imprisonment vide Siaya SPM SO 590/2013 for the offence of defilement contrary to Section 8(1) as read with Section 8 (3) of the *Sexual Offences Act*.
2. He appealed *vide* Kisumu HCRA 86/2014 as there was no High Court in Siaya.
3. From the trial court record availed, the convict initially pleaded not guilty to the charge but after 4 key witnesses had testified, he requested to change plea to that of guilty and that was done.
4. He was convicted and sentenced on 5/3/2014. On appeal he challenged the plea of guilty and asked for a retrial sentence reduction vide judgment dated 12/5/2016, the appeal against conviction was dismissed. The 30 years imprisonment was set aside and substituted with 20 years imprisonment to run from 5/3/2014.
5. In his application dated/filed on 30/7/2024, he prays that the period spent in custody be taken into account.
6. The High Court on appeal in HCRA 46/2015 having set the date when the sentence ought to start running, I have no jurisdiction to set aside that order.



7. The application is dismissed.
8. This file is closed.
9. I so order.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 27TH DAY OF SEPTEMBER, 2024.

R. E. ABURILI

JUDGE

