



**Onyango v Republic (Miscellaneous Criminal Application E203 of 2024)
[2024] KEHC 11166 (KLR) (25 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11166 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E203 OF 2024
RE ABURILI, J
SEPTEMBER 25, 2024**

BETWEEN

GODRICK OCHIENG ONYANGO APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Winam Senior Principal
Magistrate's Court Criminal Sexual Offences Case No. 11 of 2020)*

RULING

1. The Applicant is Godrick Ochieng Onyango. He was convicted vide Winam SPM Sexual Offences Case No 11 of 2020 with the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the [Sexual Offences Act](#) and was sentenced to serve ten (10) years imprisonment.
2. He now applies for non-custodial sentence on account that he has reformed.
3. I have considered the application, depositions and the documents annexed. This being a sexual offence where minimum sentences are provided under the law, I find no jurisdiction to interfere with sentence, not even under the prison decongestion program, following the recent Supreme Court's decision in the case of [Republic v Mwangi; Initiative for Strategic Litigation in Africa \(ISLA\) & 3 others \(Amicus Curiae\)](#) (Petition E018 of 2023) [2024] KESC 34 (KLR) (12 July 2024) (Judgment) that the sentences under the [Sexual Offences Act](#) which are mandatory minimums remain valid.
4. Accordingly, I find the application for non-custodial sentence not merited. The application is hereby dismissed.
5. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF SEPTEMBER, 2024



R. E. ABURILI
JUDGE

