



REPUBLIC OF KENYA



KENYA LAW
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**Odana v Republic (Criminal Petition 40 of 2023)
[2024] KEHC 15117 (KLR) (22 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15117 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL PETITION 40 OF 2023
RE ABURILI, J
NOVEMBER 22, 2024**

BETWEEN

STEPHEN ODUOR ODANA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Petitioner Stephen Oduor Odawa is a convict in Ukwala PM SO 34/2014 where he was sentenced to serve life imprisonment on 18/9/2014 for the offence of defilement contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act*.
2. The victim of the offence was aged 4 years old. The convict appealed vide Siaya HCCRA 39/2015 which appeal was dismissed. He never appealed to the Court of Appeal. He now applies for setting aside of life imprisonment.
3. I have considered the petition and submissions filed on 25/10/2023.
4. The convict was sentenced to life imprisonment for defiling a four-year child and on the strength of the Supreme Court decision in R Vs. Joshua Gichuki Mwangi, Supreme Court of Kenya Petition E018 of 2023, I find no discretion to reduce sentence imposed which is lawful and constitutional. The Supreme Court was clear in the above Petition that mandatory sentences in the *Sexual Offences Act* are lawful and constitutional, and that the Muruatetu I decision on unconstitutionality of mandatory death sentence only applied to murder cases.
5. In this case, the convict deserved the sentence imposed, considering the age of the child defiled – 4 years old.
6. I find no jurisdiction to interfere with that sentence. Petition filed on 7/8/2023 is hereby dismissed. File closed. Signal to issue.



DATED, SIGNED AND DELIVERED AT SIAYA THIS 22ND DAY OF NOVEMBER, 2024

R. E ABURILI

JUDGE

