



REPUBLIC OF KENYA



**Were v Republic (Criminal Petition E008 of 2023)
[2024] KEHC 15110 (KLR) (22 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15110 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL PETITION E008 OF 2023
RE ABURILI, J
NOVEMBER 22, 2024**

BETWEEN

GEOFFREY INDUNYI WERE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant /Petitioner herein Geoffrey Indunyi Were was convicted of the offence of defilement contrary to Section 8(1) as read with Section 8 (2) of the [Sexual Offences Act](#) No. 3 of 2006 vide Bondo PM SO 624/2015. He was sentenced to serve 20 years imprisonment.
2. He appealed vide Kisumu HCCRA No. 114/2015 which appeal was transferred to Siaya and given a new case file Number HCCRA 69/2015. The appeal was heard and dismissed by J.A Makau J. on 26/11/2015. The convict herein applied for resentencing vide Criminal Petition No. E012/2022 which petition was dismissed on 5/10/2022.
3. The convict again applied for another resentencing vide Cr. Petition No. E005/2023 which petition was heard and dismissed on 24/2/2023 for want of substance.
4. Again, the convict is here applying for resentencing. For avoidance of doubt, the Supreme Court has since declared that the minimum sentences under the [Sexual Offences Act](#) are lawful and constitutional and it has also clarified that the Francis Muruatetu & Another V Republic (2017) eKLR decision only applied to murder cases and not Sexual Offences or robbery with violence which have mandatory sentences. In other words, the Supreme Court has clarified in no uncertain terms that its decision in the Muruatetu Case I does not invalidate the mandatory or minimum sentences in the Penal Code or the [Sexual Offences Act](#) or any other statute. This pronouncement was made in the recent Supreme Court of Kenya Petition No. E018/2023 Republic versus Joshua Gichuki Mwangi [2014] eKLR.



5. In the premises, I find the persistence by the convict herein Geoffrey Indunyi Were to have his minimum 20 years sentence reduced on account of unconstitutionality to be an abuse of the court process and a waste of judicial time.
6. Accordingly, the Petition dated 13/6/2023 is hereby dismissed.
7. File is closed.
8. Signal to issue.

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

R. E. ABURILI

JUDGE

