



**DOO v Republic (Miscellaneous Criminal Application
135 of 2019) [2023] KEHC 463 (KLR) (27 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 463 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
MISCELLANEOUS CRIMINAL APPLICATION 135 OF 2019
RN NYAKUNDI, J
JANUARY 27, 2023**

BETWEEN

DOO APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant approached this court vide a Notice of Motion dated 19th June 2019 seeking the following orders;
 1. Spent
 2. Such other or further order be made as this Honourable court shall deem fast and expedient.
2. The application is premised on the grounds set out therein and the contents of the supporting affidavit to the application.
3. The applicant's case is that he was convicted on 22nd February 2010. He then appealed to the High Court vide High Court Criminal Appeal 31 of 2010 wherein the court set aside his conviction for deliberate transmission of HIV. The court set aside the sentence of 5 years for the charge of rape and substituted it with 15 years' imprisonment to run from the date of conviction 22nd February 2010. The court then directed that the sentences run consecutively. The court also upheld the sentence and conviction for obtaining money by false pretences.
4. It therefore follows that the applicant was sentenced to 15 years' imprisonment for the offence of rape, and 2 years' imprisonment for obtaining money by false pretences. There is no indication that he paid the fine and therefore he was subject to a total of 17 years' imprisonment.



5. In the premises, the court clarifies that the applicant cumulative sentence of 17 years for the two counts to run concurrently with the commencement period from 22/2/2010. With this order the committal warrants be and is hereby amended to reflect the review order on sentence.

6. As a consequence, the appellant appeal succeeds to that extent.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 27th DAY OF JANUARY 2023.

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R. NYAKUNDI

JUDGE

Coram: Hon. Justice R. Nyakundi

Mr Mugun for the state

