



**Soet v Republic (Criminal Appeal E116 of 2021)
[2023] KEHC 804 (KLR) (Crim) (17 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 804 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL APPEAL E116 OF 2021
DO OGEMBO, J
FEBRUARY 17, 2023**

BETWEEN

CHRISPAS KIBORIT SOET APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Chrispas Kiborit Soet, first filed this matter as an appeal, Criminal Appeal No E116 of 2021. In the petition of appeal filed on 4.11.2021, the applicant challenged the judgment of lower court both on conviction and sentence. Upon the appeal being served on the respondent, both parties filed written submission on the appeal as filed. In addition, the prosecution side (the Respondent), filed and served the appellant with a notice to enhance sentence dated 27.5.2022.
2. When the matter came up for directions on November 22, 2022, and the applicant having considered the apparent consequences of the notice to enhance sentence, the applicant made an oral application to withdraw the appeal. The applicant expressed to wish to pursue an application for revision so as to have the sentence revised to account for the period he spent in remand custody awaiting determination of his trial.
3. The prosecution did not have any submissions to make on the oral application made by the appellant/ applicant.
4. I have considered this oral application of the appellant. If it is the wish of the appellant to have his appeal withdrawn so that he may pursue the intended application for revision, this court cannot refuse to grant the appellant his wish. In the circumstances, I allow the oral application of the appellant. This Appeal filed herein on 4.11.2021 is hereby marked as wholly withdrawn. It is so ordered.

HON. D. O. OGEMBO



JUDGE

14TH FEBRUARY, 2023

COURT:

RULING READ OUT IN OPEN COURT (ON-LINE) IN PRESENCE OF THE APPELLANT (KAMITI MEDIUM), AND MR. MUTUMA FOR THE STATE.

HON. D. O. OGEMBO

JUDGE

17TH FEBRUARY, 2023.

