



**Kangala v Republic (Miscellaneous Criminal Application  
E119 of 2022) [2023] KEHC 2787 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2787 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E119 OF 2022**

**RE ABURILI, J  
MARCH 24, 2023**

**BETWEEN**

**HEZEKIAH OMBETI KANGALA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant herein Hezekiah Ombeti Kangala was convicted and sentenced to serve ten (10) years imprisonment for the offence of committing an indecent act with a child contrary to section 11(1) of the *Sexual Offences Act*. This was on January 24, 2019 vide Kisumu Chief Magistrate Sexual Offences Case No 4 of 2016.
2. Initially he was charged with defilement contrary to section 8(1) and 8(2) of the Sexual Offence Act. He appealed to this court vide HCCRA No 63 of 2019 which appeal he withdrew on March 8, 2022.
3. He has now by this application filed on November 9, 2022 sought for review of the sentence because he has served almost  $\frac{3}{4}$  of the sentence.
4. I find no jurisdiction for me to review sentence which was lawful and the convict having withdrawn his appeal wholly against conviction and sentence. He should have argued his case for sentence reduction on appeal.
5. I find no merit in the application for sentence reduction. Furthermore, the convict was released on bond pending trial on March 7, 2016 after appearing in court for plea on February 29, 2016 upon being arrested on February 21, 2016 as per the charge sheet dated February 29, 2016.
6. I dismiss the application for sentence review. However, I order that the sentence of ten (10) years imprisonment shall be served less fifteen (15) days that he spent in custody from February 21, 2016 to March 7, 2016 when he was arrested and released on bond pending trial.



7. Signal/order to issue and served upon prisons.
8. File closed.
9. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 24<sup>TH</sup> DAY OF MARCH, 2023**

**R E ABURILI**

**JUDGE**

