



REPUBLIC OF KENYA



**Otieno v Republic (Miscellaneous Criminal Application E095 of 2023)
[2023] KEHC 25768 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 25768 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E095 OF 2023
DO OGEMBO, J
NOVEMBER 23, 2023**

BETWEEN

SAMSON ODHIAMBO OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Samson Odhiambo Otieno has filed an application herein dated 23-6-2023. The same seeks revision of his sentence to a less severe sentence.
2. The applicant has deponed that he has rehabilitated. His application is made under section 364 of the [Criminal Procedure Code](#). The Prosecution opposes this application on grounds that the applicant can only appeal.
3. I have considered the application of the appellant. I have also considered the record of proceedings of the trial court. The applicant was charged with the offence of grievous harm contrary to section 234 of the [Penal Code](#). On 2/3/2021, he was sentenced to serve 10 years imprisonment.
4. Section 234 of the [Penal Code](#) under which the applicant was charged provides;

“ Any person who unlawfully does grievous harm to another is guilty of a felony and is liable to imprisonment for 14 years.”
5. In light of the above, it is clear that the sentence of the applicant was both legal and proper.
6. This court derives its powers of revision under section 362 of the [Criminal Procedure Code](#). And it is incumbent upon the applicant to show the incorrectness, illegality or impropriety of the order, sentence or finding of the lower court for the court to invoke its powers of revision.



7. The applicant herein has not shown any such incorrectness, illegality or impropriety in the aggrieved sentence of the trial court.
8. I therefore find this application totally incompetent and lacking in any merit. I dismiss the same wholly. It is so ordered.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 23RD DAY OF NOVEMBER, 2023.

D.O. OGEMBO

JUDGE

23. 11.2023

Court:

Ruling read out in Open court in the presence of the applicant and Ms. Mumu for State.

D.O. OGEMBO

JUDGE

23.11.2023

