



REPUBLIC OF KENYA



KENYA LAW
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Juma v Director of Public Prosecutions (Miscellaneous Criminal Application E128 of 2021) [2022] KEHC 12008 (KLR) (Crim) (23 May 2022) (Ruling)

Neutral citation: [2022] KEHC 12008 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
MISCELLANEOUS CRIMINAL APPLICATION E128 OF 2021
JM BWONWONG'A, J
MAY 23, 2022

BETWEEN

BRADLEY JUMA APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

(Being an application from the judgement of the Hon. Kimaru, J, dated 02/10/2020 in the High Court at Nairobi in Criminal Appeal No. 154 and 155 of 2019, Bradley Juma & Another v Republic)

RULING

1. The applicant through his undated chamber summons applied under certificate of urgency to have his sentence of ten years (10) be reviewed by taking into account the period he had been in pre-trial remand custody of two years five months and thirteen days.
2. It is common ground that the appellant appealed to the High Court against his conviction and sentence of fifteen years imprisonment in respect of the offence of trafficking in narcotic drugs contrary to section 4 (a) of the *Narcotic Drugs and Psychotropic Substances (Control) Act*. The High Court (Kimaru, J) reduced the sentence of 15 years to 10 years imprisonment.
3. The applicant has filed his written submissions in which he has cited many authorities in support of his application.
4. The respondent through her counsel (Ms. Maureen Akunja) has opposed the application on the ground that this court is *functus officio*. She has urged the court to dismiss the application.
5. In support of the application counsel for the respondent filed grounds of opposition in which she has stated that this court lacks jurisdiction to hear and determine the application.



6. She has submitted that this court (Kimaru, J) in Criminal Appeal Nos 154 and 155 of 2019, *Bradley Juma & Another v Republic*, reduced the sentence of 15 years to 10 years which is reported as *Bradley Juma and Peter Okoth Odongo v Republic in* (2020) e-KLR. She therefore submitted that this court cannot sit to review or vary the findings of a court of concurrent jurisdiction. She has further submitted that if the appellant is dissatisfied with the said sentence of 10 years imprisonment he should have appealed to the Court of Appeal.
7. I have considered the application and the law applicable. I find that this court through Hon. Mr. Justice Kimaru reduced the sentence to 10 years imprisonment *vide* *Bradley Juma and Peter Okoth Odongo v Republic* in [2020] e-KLR. Since this court has already pronounced itself as aforesaid, I find that it is *functus officio* with the result it lacks jurisdiction to entertain and determine this application.
8. Consequently, I find that this court lacks jurisdiction to hear and determine this application with the result that the application and is hereby dismissed.

RULING SIGNED, DATED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 23RD DAY OF MAY 2022.

J M BWONWONG'A

JUDGE

In the presence of-

Mr. Kinyua court assistant.

Ms. Akelo for the applicant.

Ms Oduor for the respondent.

