



**Kingetich v Republic (Miscellaneous Criminal Application
56 of 2019) [2022] KEHC 10301 (KLR) (24 June 2022) (Judgment)**

Neutral citation: [2022] KEHC 10301 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CRIMINAL APPLICATION 56 OF 2019**

WM MUSYOKA, J

JUNE 24, 2022

BETWEEN

PETER LODINYO KINGETICH ALIAS KATTI NGOLEKENY APPLICANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. Upon being convicted in Mumias SPMCCRC No. 1074 of 2016, and sentenced to serve three years in jail, the applicant brought the instant application, asking the High Court to review the sentence, so as to convert it to a fine.
2. The proper thing for the applicant to have done is to appeal against the sentence, for either being excessive or disproportionate to the crime. The only other option is for revision on grounds of irregularity or impropriety or illegality.
3. I note that in his application the applicant does not seek to establish that his sentence was harsh or excessive or disproportionate to the offence or was illegal or improper or irregular or incorrect. Sentencing is at the discretion of the trial court, after considering the mitigating and extenuating circumstances. The prosecution placed a record before the court, indicating that he had previous convictions. The pre-sentence report indicated that he was not remorseful. In the face of those facts the trial court cannot be faulted for not considering a non-custodial sentence. I will not interfere with the sentence, in the circumstances.
4. Copies of the ruling to be availed to the applicant and the Director of Public Prosecutions.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 24TH DAY
OF JUNE 2022**

WM MUSYOKA



JUDGE

Erick Zalo, Court Assistant.

Peter Lodinyo Kingetich, the applicant, in person.

Mr. Mwangi, instructed by the Director of Public Prosecutions, for the respondent.

