



**Simiyu v Republic (Miscellaneous Criminal Application  
E201 of 2021) [2022] KEHC 12427 (KLR) (25 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 12427 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KITALE  
MISCELLANEOUS CRIMINAL APPLICATION E201 OF 2021**

**LK KIMARU, J  
JULY 25, 2022**

**BETWEEN**

**LEONARD WEKESA SIMIYU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant, Leonard Wekesa Simiyu was convicted of the charge of Defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act*. The trial court found as a fact that the prosecution had established to the required standard of proof that between 27<sup>th</sup> May and 2<sup>nd</sup> June 2018 in Kiminini Sub County of Trans Nzoia County, the Applicant caused his penis to penetrate the vagina of EW, a child aged 15 years. The Applicant was sentenced to serve (6) six years imprisonment on 7<sup>th</sup> of August 2019.
2. The Applicant has applied to this court to have his sentence re-considered. He submitted that he had stayed in prison for a period of three and a half years. He was remaining with one and a half years to complete the sentence. He pleaded with the court to exercise leniency on him. He was remorseful and repentant in regard to what had happened. In the period of his incarceration, he had reformed. He had benefited from theological studies that he had undertaken while in prison. Mr Omooria for the State left the issue of sentence to the court.
3. This court has carefully considered the plea by the Applicant for reduction of sentence. It has had the benefit of reading the proceedings before the trial court. This court formed the opinion that the Applicant was lucky that he was not sentenced to serve the mandatory minimum sentence. He did not appeal against conviction. This meant that he had admitted committing the offence. The Applicant should ride his luck and serve the remainder of the sentence.



4. The upshot of the above reasons is that the application lacks merit and is hereby dismissed. It is so ordered.

**DATED AT KITALE ON THIS 25<sup>TH</sup> DAY OF JULY, 2022.**

**L. KIMARU**

**JUDGE**

