



REPUBLIC OF KENYA



KENYA LAW
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**Kinyua v Republic (Criminal Revision E130 of 2022)
[2022] KEHC 13781 (KLR) (22 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13781 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
CRIMINAL REVISION E130 OF 2022
GL NZIOKA, J
SEPTEMBER 22, 2022**

BETWEEN

DAVID WANGECHI KINYUA APPELLANT

AND

REPUBLIC RESPONDENT

(From Original Criminal Case No. E004 OF 2022 of Magistrates Court Engineer)

RULING

1. The applicant has moved the court *vide* a notice of motion application filed in court on September 2, 2022, seeking that, the court do reduce the sentence of ten(10) years meted upon him *vide* Senior Principal Magistrate's court Criminal Case No Sexual Offence 4 of 2020. The application is accompanied by a memorandum of sentence review in which he lists several reasons for the sentence review. Additionally, he has sworn and filed an affidavit in support of the application.
2. Apparently, a sentence review report has been filed by the probation department dated September 16, 2022. The Probation Officer recommends that, the "inmate serves a quarter of his sentence and thereafter he can re-apply for sentence review.
3. However, upon perusal of the files placed before the court, I note that, the applicant filed a similar application *vide* High Court Criminal Revision No E020 of 2020, seeking for similar orders.

The same was heard and determined by the Hon Justice Richard Mwangi on September 25, 2021 and dismissed. It is therefore clear that, the applicant is abusing the due process of law. Further, in that case, I find the court is *functus officio*. I consequently dismiss the application.

It is so ordered.

DATED, DELIVERED AND SIGNED ON THIS 22ND DAY OF SEPTEMBER 2022.



GRACE L. NZIOKA

JUDGE

22/9/2022

Court- The file should be closed. A copy of this order be supplied to incharge Prison, Director of Public Prosecution/Applicant.

GRACE L. NZIOKA

JUDGE

22/9/2022

