



**Apiyo v Republic (Miscellaneous Criminal Application E134 of 2022)
[2022] KEHC 14555 (KLR) (26 October 2022) (Ruling)**

Neutral citation: [2022] KEHC 14555 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E134 OF 2022
RE ABURILI, J
OCTOBER 26, 2022**

BETWEEN

SAMUEL ONDENG APIYO PETITIONER

AND

REPUBLIC RESPONDENT

(Application for Sentence review against conviction and sentence of Hon. E.N. Wasike, SRM in Bondo PM Sexual Offence Case No. 40/2017 and in Siaya Criminal Appeal No. 39 of 2018)

RULING

1. The applicant herein is a convict for the offence of defilement contrary to Section (1) as read with Section 8(3) of the *Sexual Offences Act*. The victim was aged 14 years. This was vide Bondo PM Sexual Offence Case No. 40/2017.
2. He appealed to this court HCRA 39/2018 which appeal against conviction he withdrew on 30/10/2019 and urged the court to reduce his sentence of 20 years imprisonment.
3. He now wants leave to appeal out of time from judgment rendered on 18/11/2019 claiming that he was not supplied with copies of proceedings and judgment. However, there is no evidence that the applicant herein ever applied for or paid for proceedings and judgment or even filed a Notice of appeal which filing is free of charge, showing the intention to appeal.
4. I find this application to be afterthought and brought with inordinate delay. Furthermore, this court declined to interfere with the sentence imposed on account that the appellant was also convicted and sentenced to serve another 10 years imprisonment in Bondo PM Sexual Offence case No. 40/2017 for defilement and it was clear that only prison can help reform the applicant convict herein who was a recidivist in sexual offences.
5. I find this application devoid of merit. I dismiss it. File is closed.



DATED, SIGNED AND DELIVERED AT SIAYA THIS 26TH DAY OF OCTOBER, 2022.

R.E. ABURILI

JUDGE

