



**Mukoto v Republic (Miscellaneous Criminal Application E007 of 2022)  
[2022] KEHC 15715 (KLR) (24 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 15715 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
MISCELLANEOUS CRIMINAL APPLICATION E007 OF 2022  
PJO OTIENO, J  
NOVEMBER 24, 2022**

**BETWEEN**

**JACKLINE LIYEMA MUKOTO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged and convicted before the High Court in Kakamega and sentenced to serve a jail term of 50 years. She appealed to the Court of Appeal which allowed the appeal and reduced the sentence to the period already served. The Court of Appeal held<sup>1</sup>:-

“The appellant was remorseful. She committed the killing after overnight prayers at a church. It is not clear why she would want to kill her own child. Her defence suggests that she committed the offence when under some spell and was oblivious of her action or its gravity. Considering all these circumstances and that she has been incarcerated since July 1, 2013, we hereby allow her appeal on sentence and reduce the same to the period already served.

The appellant shall be released forthwith unless held for some other lawful reason.”

2. The application before me for resentencing is clearly oblivious of the decision by the Court of Appeal. It seeks to have an order that her jail term, which is already terminated by the decision of the Court of Appeal, computed with regard to the period served while undergoing trial.
3. It is clear as the court that when the matter was before court on September 21, 2022, the outcome of the appeal was not brought to the attention of the court just like the applicant never exhibited to court that outcome.

<sup>1</sup> [Mukoto -vs- Republic](#) [2022] KECA 706 (KLR)



4. That is a situation that portends an embarrassing conflict between decisions by this court and those by the Court of Appeal. It is therefore the direction of the court that whenever there be filed an application for resentencing, there must be demonstration that the applicant has exhausted his appellate avenues and decisions of such appellate court exhibited.

5. Be it as it is, the application for resentencing is overtaken by events. Let the court file be closed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 24<sup>TH</sup> DAY OF NOVEMBER 2022.**

**PATRICK J. O. OTIENO**

**JUDGE**

**In the presence of:**

No appearance for the Applicant

Ms. Chala for the Respondent

Court Assistant: Polycap Mukabwa

