



**Wekesa v Republic (Miscellaneous Criminal Application E027 of 2020)
[2022] KEHC 18090 (KLR) (20 December 2022) (Ruling)**

Neutral citation: [2022] KEHC 18090 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
MISCELLANEOUS CRIMINAL APPLICATION E027 OF 2020
REA OUGO, J
DECEMBER 20, 2022**

BETWEEN

JOSEPH WANGILA WEKESA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Joseph Wangila Wekesa the applicant in this matter has filed a chamber summons on the August 1, 2020. He seeks to have his sentence reviewed. According to his application and supporting affidavit he was convicted for an offence of manslaughter in criminal case No 05/2005 at Bungoma and sentenced to the president's pleasure. He states that he did not appeal to the Court of Appeal against the High Court decision and have his application for sentence...He relies on the case of *AOO & others vs the Attorney General* 2017 eKLR and avers further that the High Court has the jurisdiction to hear and determine the application under Article 165 (3) (b) of the *Constitution of Kenya 2010*. He seeks that the court gives him a lenient alternative sentence under Article 50 (2) (b) (a) of the *Constitution of Kenya* and further that the court invokes the provisions of Section 333 (2) ie the period spent in remand to factor in the sentence to be awarded.
2. The application was opposed by the Respondent. Miss Omondi submitted that this court lacks the jurisdiction to grant the orders sought for the following reasons; a court of similar jurisdiction sentenced the applicant after he pleaded guilty. That the applicant was found to be guilty and insane and sentenced to be held at the president's pleasure. That the only recourse to the applicant is to forward his plea to the mercy committee.
3. I have considered the application and I agree with the submissions of the Respondent. This court lacks the jurisdiction to review the sentence imposed on the applicant. The authority relied didn't deal with a similar issue. As submitted let the applicant make his plea to the mercy committee as provided in law. File is closed.



DATED, SIGNED, AND DELIVERED AT BUNGOMA IN OPEN COURT THIS 20TH DAY OF
DECEMBER, 2022

R.E. OUGO

JUDGE

In the presence of:

Ms Omondi – State Counsel

Ms Wilkister – Court Assistant.

Applicant : Joseph Wangila Wekesa– present online.

