



REPUBLIC OF KENYA



**Olugo v Republic (Miscellaneous Criminal Application E150 of 2022)
[2022] KEHC 16873 (KLR) (19 December 2022) (Ruling)**

Neutral citation: [2022] KEHC 16873 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E150 OF 2022
RE ABURILI, J
DECEMBER 19, 2022**

BETWEEN

WISCONSIN OTIENO OLUGO APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for resentencing arising from conviction and sentence in Siaya PM SO Case No. 109/2012 by Hon. R.B. Ngetich, Senior Principal Magistrate on 31/10/2012 and in Kisumu HCCRA No. 111 of 2012 by Hon. E.N. Maina J on 21.7.2015 and in Kisumu COA CRA 127/2015)

RULING

1. This matter was transferred from Kisumu vide Kisumu HCR Misc E048/2022 to this court for hearing and determination because the lower court matters originated from Siaya Law Courts vide Siaya PM SO No 109/2012 wherein the applicant was convicted and sentenced to serve life imprisonment on October 31, 2012 for the offence of defilement. The complainant was aged 9 years old.
2. On appeal to Kisumu High Court, EN Maina J dismissed the appeal against conviction and sentences vide judgment of July 21, 2015.
3. The applicant filed the appeal to the Court of Appeal vide Kisumu COA CRA 127/2015 and vide judgment delivered in 2020, the Court of Appeal dismissed the appeal against conviction but set aside life imprisonment and substituted it with 20 years imprisonment.
4. The applicant is back to this court seeking for resentencing.
5. The Court of Appeal having vacated the minimum mandatory life imprisonment and substituted it with 20 years imprisonment, this was a resentencing which this court has no jurisdiction to interfere with.



6. The application for resentencing is found to be devoid of any merit. It is hereby dismissed.

7. File closed.

Dated, signed and Delivered at Siaya this 19th Day of December, 2022

R.E. ABURILI

JUDGE

