



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISC. CRIMINAL APPLICATION NO. E084 OF 2021

CORAM: R.E. ABURILI, J

NELSON WAFULA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application seeking sentence review in Siaya Principal Magistrate Court Cr. Case No. 323 of 2018 sentence passed on 25.10.2019 by Hon. J. O. Ongondo, Principal Magistrate) AND Siaya HCRA 78/2019 dated 5/5/2020)

RULING

1. The applicant Nelson Wafula was convicted of the offence of Manslaughter and sentenced to serve life imprisonment on 25/10/2019 by Hon. J. Ongondo, Principal Magistrate in Siaya PM Cr. Case No. 323 of 2018.
2. He appealed to this court vide Siaya HCRA 78/2019 which appeal was heard and determined on 5/5/2020 by this court.
3. The Appellant therein only challenged sentence at the hearing of his appeal.
4. This court after hearing the appeal against sentence and circumstances under which the offence was committed and mitigations, it set aside the life imprisonment imposed and resented the appellant to serve seven (7) years imprisonment.
5. It is worth noting that this court found that life imprisonment was lawful but the maximum term as imposed was excessive in the circumstances of the case.
6. The Applicant is again before this court by way of an application seeking for review of the sentence of 7 years imprisonment.
7. This court having reduced life imprisonment to seven years imprisonment which is the least severe in a case where a life was lost, cannot be called upon to review the sentence further. That would be tantamount to sitting on own appeal which is abhorred by law.
8. The application for sentence review, is therefore an abuse of court process and misconceived.
9. The same is hereby declined and dismissed.
10. File closed.
11. Orders accordingly.

Dated, signed and Delivered at Siaya this 30th Day of June, 2021

R.E. ABURILI

JUDGE