

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

MISC. CRIMINAL APPLICATION NO. 29 (E037) OF 2021

GEORGE WANDAKI WANJALA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant, **George Wandaki Wanjala**, was convicted of **Incest** contrary to **Section 20(1)** of the **Sexual Offences Act** and sentenced to serve ten (10) years imprisonment. His appeal to this court was dismissed on 17th February 2020. Not deterred, the Applicant now seeks a revision of his sentence. He tells the court that since his arrest on 20th June 2016, he has been in prison. During the period, he had undertaken various courses that has made him a better person. He has acquired a new set of skills that will serve him in good stead if the court favourably considers his application for reduction of sentence. Mr Omooria for the State left the issue of the Applicant's sentence to the discretion of the court.

This court has considered the Applicant's application. It is clear that this court lacks jurisdiction to consider the Applicant's application. A court of concurrent jurisdiction considered the Applicant's appeal on its merit and rendered its verdict both on the question regarding the validity of the Applicant's conviction and whether the custodial sentence that was imposed on him fitted the crime that was committed. Once that verdict was rendered, the Applicant remedy lay in filing an appropriate appeal to the Court of Appeal and not by filing such an application as the present one.

In the circumstances therefore, this court holds that it is *functus officio*. It cannot reopen the issues that were heard and considered on its merit by a court of concurrent jurisdiction. The application lack merit and is hereby dismissed. It is so ordered.

DATED AT KITALE THIS 26TH DAY OF OCTOBER, 2021.

L. KIMARU

JUDGE