



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CONSTITUTIONAL PETITION NO. 46 OF 2019**

**(CORAM: R. E. ABURILI - J.)**

**FRED ODHIAMBO.....PETITIONER**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The Petitioner is in prison and has not been produced in court. I however, observe that the Petition is for resentencing. There are no court proceedings and judgment of the Lower Court attached.

2. Defilement under **Section 8(1)(2)** is an offence that carries up to life imprisonment but the petitioner was given only 20 years imprisonment. He should have appealed against sentence instead of filing a Petition for resentencing. I hereby find this petition incompetent and I proceed to dismiss it.

3. Orders accordingly.

**Dated, Signed and Delivered at SIAYA this 27<sup>th</sup> Day of January 2020.**

**R.E. ABURILI**

**JUDGE**

***In the presence of:***

Mr. Okachi: Prosecution Counsel for the State

Court Assistants: Brenda, Modestar