

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

MISC. CRIMINAL APPLICATION NO. 46 OF 2019

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

SAMWEL DALON OWINO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of Sentence and Conviction in Kisumu HCRA 156/2011 and originally from PM's court, Bondo vide Criminal Case No. 965 of 2011)

JUDGMENT

1. The applicant was convicted and sentenced to serve 25 years imprisonment for the offence of defilement of a child under section 8(3) of the Sexual Offences Act vide Bondo PM Sexual Offence Case No 965 of 2011. He appealed to the High Court at Kisumu vide HCRA 156/2011. His appeal was dismissed. There is no evidence that he challenged that decision to the Court of Appeal. As the Application is not a constitutional Petition and as it seeks for revision of the judgment of this court in Kisumu HCRA 156/2011, which courts have concurrent jurisdiction, this court is functus officio. It has no power to review judgment of a court of concurrent competent jurisdiction.
2. The Application filed on 30/12/2019 is hereby dismissed and this file is closed.

Dated, signed and delivered at Siaya, this 24th day of February, 2020

R.E. ABURILI

JUDGE

In the presence of:

Samwel Dalon Owino, Applicant

Mr. Ngetich, Prosecution Counsel for the Respondent

Court Assistants: Brenda Achieng and Modestar Mutiemani