

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISC. CRIMINAL APPLICATION NO. 15 OF 2020

COLLINS ODHIAMBO OLUOCH.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for leave to appeal out of time under Section 349 of the Criminal Procedure Code

from Original Criminal Case No. 412 of 2015 in the Principal Magistrate's court at Siaya

dated 30.08.2015, Hon. C. Okore)

RULING

1. The applicant/convict **Collins Odhiambo Oluoch** claims that he was convicted and sentenced by Siaya PM's court on 30.8.2015 of the offence of attempted defilement contrary to Section 9(1) as read with Section 9(2) of the Sexual Offences Act and sentenced to serve 30 years imprisonment. There is no such offence created under the cited provisions but under section 8(1) as read with section 8(2) of the Sexual Offences Act.
2. He now claims that he appealed within time but never received any communication. The application does not disclose the name of the trial magistrate. Nonetheless, there is no evidence of an appeal lodged in this court then, which is pending.
3. The applicant/convict is mischievous and dishonest. He is guilty if laches. The application is devoid of merit. It is an afterthought. The same is hereby dismissed.
4. File closed.

Dated, signed and Delivered at Siaya this 22nd Day of July, 2020

R.E. ABURILI

JUDGE