

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL REVISION NO. 221 OF 2020

FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL CASE NO. 38 OF 2020 OF KILIGORIS MAGISTRATE'S COURT

STANLEY CHERUIYOT KORIR.....APPLICANT

VERSUS

RESPONDENT..... STATE

RULING

1. **STANLEY CHERUIYOT KORIR** hereinafter referred to as the applicant was charged contrary to section 8 (1) (3) of the Sexual Offences Act No. 3 of 2006. He was convicted and sentenced to serve 20 years' imprisonment. In his application received in court on the 6th July 2020 the applicant seeks a reduction of his sentence.
2. In his application he states that he pleaded guilty at trial, that he is first offender and he is remorseful. That he is an orphan having lost his parents at a tender age of 9 years. That he was deceived by the victim that she was 20 years only to realise that she was 17 years.
3. In **Wanjema v Republic [1971] EA 493**, Court of Appeal stated as follows:

“[The] Appellate court should not interfere with the discretion which a trial court extended as to sentence unless it is evident that it overlooked some material factors, took into account some immaterial factors, acted on wrong principle or the sentence is manifestly excessive in the circumstances of the case.”

4. *The applicant was convicted after a full trial. Whilst sentencing the applicant the trial court observed that the applicant was a first offender and that he was remorseful. That the offence was a serious one and a deterrent sentence was in order.*
5. *The facts of the cases were that the child would take refuge in the applicant's house quite often and that the applicant admitted that he used to satisfy his sexual urges using the said child. What a way to treat a child who had taken refuge in his home. The child was 13 years and indeed she has been scarred, the applicant does not deserve a reduction of his sentence. I find no merit in the applicant's application and it is dismissed. The applicant shall continue to serve his sentence. He has a right of appeal within 14 days.*

Dated, signed and delivered at KISII this 15th day of December 2020.

R.E. OUGO

JUDGE

In the presence of:

Applicant in person Present

Mr. Otieno Senior State Counsel Office of the DPP

Ms Rael Court Assistant