



**Onyango v Republic (Criminal Revision E096 of 2024)
[2025] KEHC 522 (KLR) (17 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 522 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E096 OF 2024**

**DK KEMEL, J
JANUARY 17, 2025**

BETWEEN

STEPHEN OTIENO ONYANGO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein Stephen Otieno Onyango filed the present application on 16/10/2024 seeking for review of sentence. The Applicant’s case is that the sentence of 10 years is harsh. That he has undergone rehabilitation and that he is now reformed and ready to rejoin his family members.
2. I have given due consideration to the application. It is not in dispute that the Applicant was sentenced to serve a sentence of ten years vide Ukwala SRM CR SO No. 29 of 2019. It is also not in dispute that the Applicant subsequently filed an appeal at Siaya High Court vide HCCRA No. E018 of 2020 which was dismissed by Aburili J, on 27/4/2021 and who also ordered the Applicant to serve a further twelve months (12) for the second count of assault causing actual bodily harm. It is also not in dispute that upon this court determining the Applicant’s appeal on 27/4/2021 it became functus officio and that the Applicant if aggrieved, was expected to lodge an appeal to the Court of Appeal. It is instructive that the Applicant has not indicated as to whether he has ever lodged an appeal to the Court of Appeal. It is also instructive that the Applicant has deliberately omitted the fact that he had already lodged an appeal to this court which was duly determined. It seems to me that the Applicant is trying to have a second bit at the cherry yet this court is already functus officio. I decline the invitation by the Applicant to entertain his application as to do so would amount to this court sitting on appeal on a matter that it had already determined. I find the application is an abuse of the court process. The Applicant should move to the Court of Appeal, if aggrieved, for redress.
3. In the result, it is my finding that the Applicant’s application filed on 16/10/2024 lacks merit. The same is dismissed.



DATED AND DELIVERED AT SIAYA THIS 17TH DAY OF JANUARY 2025.

D. KEMEI

JUDGE

In the presence of:

Stephen Otieno Onyango..... Applicant

M/s Kerubo..... for Respondent

Mboya..... Court Assistant

