



**CK v Republic (Miscellaneous Criminal Application E028 of 2024)
[2025] KEHC 1852 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1852 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
MISCELLANEOUS CRIMINAL APPLICATION E028 OF 2024**

JK SERGON, J

FEBRUARY 6, 2025

BETWEEN

CK APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged and convicted for the offence of defilement contrary to section 8 (1) as read with section 8(2) of the [Sexual Offences Act](#) No. 3 of 2006 and sentenced to serve a three (3) year term at Shikusa Borstal Institution.
2. The Applicant filed this application for revision under the provisions of section 364 of the [Criminal Procedure Code](#). It is the Applicants contention the sentence imposed was harsh and excessive in light of the facts and circumstances of the case. The Applicant contended that the trial court did not consider the mitigating factors and the fact that he is a minor and therefore the jail term at Shikusa Borstal Institution would hinder his progress to acquire formal education. The Applicant therefore urged this Court to review the sentence and substitute it with a non-custodial sentence.
3. The matter came up for inter partes hearing, the applicant reiterated that this court should substitute the sentence meted out by the trial court with a non-custodial sentence to afford the applicant the chance to pursue formal education. The prosecution vehemently opposed the said application and stated that the trial court took into account the best interest of the child during sentencing and that the sentence should be maintained.
4. Having considered the instant application, it is my finding that this court is barred from entertaining such an application under Section 364(5) of the [Criminal Procedure Code](#). In other words, the law does not allow a party who has a right of appeal to personally approach this court for revision.



5. In the end, I find the instant application to be improperly before this Court. The same is ordered struck out with no order as to costs.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 6TH DAY OF FEBRUARY, 2025.

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J.K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

P/Counsel – Maundu

Applicant – Present in Person

