



**Mwavyoni v ODPD (Criminal Miscellaneous Application
E128 of 2024) [2025] KEHC 6811 (KLR) (14 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6811 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL MISCELLANEOUS APPLICATION E128 OF 2024**

WM KAGENDO., J

MAY 14, 2025

BETWEEN

SAID ABDALLA MWAVYONI ACCUSED

AND

ODPP PROSECUTOR

RULING

1. The applicant was convicted and sentenced to 10 years imprisonment for an offence of defilement contrary to section 8(1) as read with 8(3) of the [Sexual offences Act](#), No.3 of 2006.
2. The Applicant did not appeal conviction and sentence.
3. The applicant has approached this court by way of an application invoking the revision powers of this court. The Applicant states that he was arrested on 25/9/2020 and convicted on 5/5/2021. He states that he has served 5 years since arrest and he is now remaining with 1 year of sentence.
4. As per his application, the Applicant seeks a sentence review to a non-custodial term for the remainder of his term so as to be able to look after his wife and 2 children , one of whom is blind and his sickly mother who suffers from fistula. He also states that he has been of good behavior and has completed his primary education while in prison custody and that the complainant has since forgiven him. According to him he is now ready to be a useful member of society.
5. A sentence review report was filed. It shows that the victim forgave him and she is looking forward to his assistance in bringing up the child from their relationship.
6. The Applicant has made a strong case warranting consideration for review of his custodial sentence. He is sentenced to a probation sentence of two years under prison decongestion.

DATED AT NAIROBI THIS 14TH DAY OF MAY 2025



In the presence of:

Mr. Ngiri.....Prosecutor

Ms. Bebora.....Court Assistant

Signed By: HON. LADY JUSTICE WENDY MICHENI

