



**Wanjiku v Republic (Miscellaneous Criminal Application  
E027 of 2023) [2025] KEHC 8648 (KLR) (19 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8648 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
MISCELLANEOUS CRIMINAL APPLICATION E027 OF 2023**

**EM MURIITHI, J**

**JUNE 19, 2025**

**BETWEEN**

**JOHN KANJA WANJIKU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant seeks re-sentencing for reduction of his sentence of his imprisonment for 30 years for the offence of detention contrary to section 8(1) and read with 8(2) of the *Sexual Offences*. The applicant has been in custody since 9.7.2019 and his appeal to the High Court was dismissed on 25.4.2023. The court, however, directed that his sentence of imprisonment for 30 years should commence on 7.12.2018 when he was arrested to take into account the seven (7) months of the pre-trial detention.
2. The sentence prescribed for the offence of defilement under section 8(1) and 8(2) is imprisonment for life.
3. The Supreme Court of Kenya has in recent decisions of *Republic v Manyeso* [2025] KESC 16 (KLR) and *Republic v Ayako* (Petition E002 of 2024) [2025] KESC 20 (KLR) (11 April 2025) (Judgment), has settled the imprisonment for life is constitutional and lawful sentence, the Court holding that “the life imprisonment sentence remains lawful and in line with Section 8 of the *Sexual Offences Act*” and that the minimum and mandatory sentences in sexual offences are also constitutionally lawful,
4. The mandatory sentence for offence of defilement under section 8(1) and (2) of the *sexual offences Act* is life imprisonment.
5. The applicant was lucky he was sentenced for 30 years imprisonment on the state of the law as it then existed before the clarification of the Supreme Court of Kenya. In addition his sentence has taken into account the period of pre-trial detention in accordance with Section 333(2) of *Criminal Procedure Code*.



6. This Court does not have the power in the circumstances of this to reinstate the sentence of life imprisonment for the offence subject of this application as the Supreme Court did in *Republic v Ayako* (Petition E002 of 2024) [2025] KESC 20 (KLR) (11 April 2025) (Judgment).
7. Consequently, the applicant must count himself lucky that he is serving a determinate sentence of thirty (30) years for an offence which calls for a mandatory sentence of life imprisonment.

#### **Orders**

8. Accordingly, for the reason given above applicant's application for re-sentencing in this matter is declined.

Order accordingly.

**DATED AND DELIVERED ON THIS 19<sup>TH</sup> DAY OF JUNE 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances:-

Mr. Mamba for the DPP.

Applicant – Present.

