



**Adugo v Republic (Miscellaneous Criminal Application
E020 of 2025) [2025] KEHC 10838 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10838 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E020 OF 2025**

JM OMIDO, J

JULY 1, 2025

BETWEEN

SAMUEL OKOTH ADUGO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein, vide the Notice of Motion dated 17th January, 2025 seeks an order for the review of his sentence, so that he serves the remainder of his sentence on probation.
2. I note from the record of the lower court that the Applicant was convicted on a charge of defilement of a 17-year-old minor and sentenced to serve 10 years imprisonment. The court ordered that the sentence would run from 21st May, 2020, being the date that the Applicant took plea.
3. The relevant provision under which the Appellant was sentenced is Section 8(4) of the *Sexual Offences Act* provides that:

“A person who commits an offence of defilement with a child between the age of sixteen and eighteen years is liable upon conviction to imprisonment for a term of not less than fifteen years.”
4. It is clear from the above that whereas the law provides for a minimum sentence of imprisonment of 15 years for the offence, the Applicant was sentenced to only 10 years imprisonment. A probation sentence is therefore not available in law, in the circumstances.
5. Although the sentence is below the minimum provided for by statute, the state did not appeal against the sentence and did not therefore seek for its enhancement. I will therefore not interfere with the same.
6. The upshot then is that I find that the Applicant’s motion is devoid of merit. I proceed to dismiss it.



7. This file is closed.

DELIVERED (VIRTUALLY) DATED AND SIGNED THIS 1ST JULY, 2025.

JOE M. OMIDO

JUDGE

Applicant: Present, virtually.

Respondent: Ms. Muema.

Court Assistants: Mr. Ngoe & Mr. Juma.

