



**Nthusa v Republic (Criminal Revision E022 of 2025)  
[2025] KEHC 10394 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10394 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
CRIMINAL REVISION E022 OF 2025  
EN MAINA, J  
JULY 15, 2025**

**BETWEEN**

**BENARD KIMANI NTHUSA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This is an application for a non-custodial sentence which in my view is not merited for several reasons;
2. Firstly, the Applicant appealed to this very court although differently constituted and was heard and his sentence was reduced. That being a court of con-current jurisdiction, this court has no power to review its sentence/judgment. The Applicant can only appeal.
3. Secondly, the *Community Service Orders Act* is applied only to non-serious offences but the Applicant was charged with a sexual offence and he does not therefore qualify for a non-custodial sentence under that *Act*.
4. Thirdly, the application is not made in good faith but is intended for the Applicant to avoid the consequences of his conduct. His appeal was concluded in 2017, or so he says, and he has not served much of his sentence given that the time he was in remand custody, if any, will also be counted.

In the premises, the application is not merited and it is dismissed.

**RULING SIGNED, DATED AND DELIVERED IN COURT VIRTUALLY THIS 15<sup>TH</sup> JULY, 2025.**

**E.N. MAINA**

**JUDGE**

In the presence of:

Ms Nyauncho for the state



Applicant online from Nairobi West Prison

Geoffrey – Court Assistant

