



**Pushen v Republic (Miscellaneous Criminal Application
E012 of 2024) [2025] KEHC 10341 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10341 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPENGURIA
MISCELLANEOUS CRIMINAL APPLICATION E012 OF 2024**

RPV WENDO, J

JULY 16, 2025

BETWEEN

NGOLERIGEY PUSHEN APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Ng'oloreikey Pushen was convicted for the offence of Defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act*.
2. He was sentenced to serve ten (10) years imprisonment. He appealed to the High Court in CRA. 015 of 2022 and on 8/11/2023, Justice Mrima, dismissed the appeal. He has now filed another application and seeks the court to include the time he spent in custody i.e., one year, in the sentence.
3. The prosecution left the issue to the discretion of the court.
4. However, the court has no discretion to exercise in this matter. Having appealed to the High Court, the applicant should have included all the grounds of appeal to be dealt with therein. He has already been heard by this court. He cannot keep coming back to this court for redress. If the applicant still feels aggrieved, the proper forum to move to is the Court of Appeal. This court is *functus officio*. The application is hereby dismissed. File closed

DELIVERED, DATED AND SIGNED AT KAPENGURIA THIS 16TH DAY OF JULY, 2025

R. WENDO

JUDGE

Judgment delivered in the presence of:-

Mr. Suter for the State



Applicant -

Juma/Hellen – Court Assistants

