



REPUBLIC OF KENYA



**Wanakai alias Salim Mariga v Republic (Criminal Petition
E025 of 2023) [2025] KEHC 12537 (KLR) (9 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12537 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL PETITION E025 OF 2023
RN NYAKUNDI, J
SEPTEMBER 9, 2025**

BETWEEN

EDWIN WAFULA WANAKAI ALIAS SALIM MARIGA PETITIONER

AND

REPUBLIC RESPONDENT

RULING

Representation

M/S Sidi for the State

1. Before this court is an application dated 30th day of July 2023 where the petitioner is seeking the following orders:
 - a. That, the petitioner is seeking sentence review under article 50(2) (p) (q) of the constitution of Kenya 2010.
 - b. May the honorable court allow his sentence to start from the day he was first arrested and arraigned in court.
 - c. Spent
 - d. That, the petition is seeking enforcement of section 333 (2) of the criminal procedure code in relation to sentences that have not factored the time spent in custody.
2. The Application is supported by the annexed affidavit sworn by the petitioner who avers as follows;
 - a. That, I was charged, convicted and sentenced to serve 20 years' imprisonment for the offence of defilement c/sec 8(1)(3) SOA No.3 of 2006 by the CM's court Eldoret.



- b. That, I was arraigned in court in the year 2016 and sentenced on 5/10/2022 without factoring the period pre-trial period.
- c. That, the upshot of the judgement was that the sentence commences on 5/10/2022 when I was convicted.
- d. That, may it please the court to peruse the trial court proceedings and exercise its jurisdiction based on the enabling provisions of law and invoke the said provisions when making a determination on this matter.
- e. That, it is my humble prayer and request to this honorable court to allow this sentence of 20 years to commence from 2016 for the sake of justice.
- f. That, may this honorable court exercise section 333(2) of the [CPC](#) and allow my sentence to commence as mitigated.
- g. That, may this honorable court be lenient to I the applicant and allow me to join my family as they are in need of me and as per the probation report.
- h. That, I pray for sentence review pursuant to High Court criminal petition no. E017 of 2021 at High Court Machakos by Justice George Odunga and section 333(2) of the [CPC](#).

Decision

- 3. This application as premised is to be considered under Article 19, 20, 22, 25, 27, 28, 29, 50, 51, 159, & 165 of the [constitution](#) of Kenya and all enabling powers and provisions of the law. The applicant in this case withdrew his appeal on 13th May 2025 and there was no indication of any pending interlocutory application. That is how Ominde J ordered for the appeal to be withdrawn and the file be marked as closed. This application can only be revisited by court No. 3. Otherwise this file as of now should be marked as finalized as with no other determination from any of our High Court. It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 9TH DAY OF SEPTEMBER 2025

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R. NYAKUNDI
JUDGE

