



**Odero v Republic (Criminal Revision E277 of 2022)  
[2024] KEHC 1403 (KLR) (Crim) (12 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1403 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL REVISION E277 OF 2022  
LN MUTENDE, J  
FEBRUARY 12, 2024**

**BETWEEN**

**TEDDY KARIRE ODERO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Teddy Karire Odero, the applicant, was convicted by the lower court for the offence of defilement and sentenced to serve twenty (20) years imprisonment. His first appeal was dismissed. The High Court upheld the conviction and sentence of the trial court. Aggrieved, he preferred a second appeal to the Court of Appeal which was dismissed.
2. Through an undated application, filed herein on On 2<sup>nd</sup> November, 2022, he seeks variation of sentence so as to be discharged absolutely.
3. The application is opposed by the Respondent who argues that the court is *functus officio*.
4. Revisionary Jurisdiction cannot be invoked where a party has filed an appeal. The appellant's appeal was heard and determined to finality therefore issues raised cannot arise. This court would therefore not have Jurisdiction to determine the matter as it is *functus officio*.
5. The Supreme Court expounding on the doctrine of *functus officio* in *Raila Odinga & Others vs. IEBC & Others* [2013] eKLR citing with approval an excerpt from an article by Daniel Malan Pretorius, in "[\*The Origins of the functus officio Doctrine, with Specific Reference to its Application in Administrative Law,\*](#)" (2005) 122 SALJ 832 stated thus:

“The *functus officio* doctrine is one of the mechanisms by means of which the law gives expression to the principle of finality. According to this doctrine, a person who is vested



with adjudicative or decision-making powers may, as a general rule, exercise those powers only once in relation to the same matter.... The [principle] is that once such a decision has been given, it is (subject to any right of appeal to a superior body or functionary) final and conclusive. Such a decision cannot be revoked or varied by the decision-maker.”

6. The upshot of the above is that this court being *functus officio* is not seized of jurisdiction to determine the matter. In the result, the application fails and is struck out.

7. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS AT NAIROBI, THIS 12<sup>TH</sup> DAY OF FEBRUARY, 2024.**

**L. N. MUTENDE**

**JUDGE**

In The Presence Of:

Applicant

Ms. Ntabo for ODPP

Court Assistant – Hadija/Habiba

