



REPUBLIC OF KENYA



KENYA LAW
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**Lwande v Republic (Criminal Revision 26 of 2024)
[2024] KEHC 2454 (KLR) (12 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2454 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 26 OF 2024
DR KAVEDZA, J
MARCH 12, 2024**

BETWEEN

JOSEPH OTIENO LWANDE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant filed a notice of motion application seeking resentencing. The application is supported by an affidavit sworn by the applicant. The averments made in support of the application are that is remorseful for the crime committed. He urged the court to resentence him.
2. In his pleadings, the applicant contended that he was charged and convicted for the offence of robbery with violence contrary to section 296 (2) of the *Penal Code*. He was sentenced to death. He appeal to the High Court in Nairobi Criminal Appeal No. 100 of 2007 was dismissed. In Criminal Appeal No. 33 of 2021 to the Court of Appeal was also dismissed. He maintains that he has been in prison for twenty (20) years which is adequate rehabilitation. He urged the court to resentence him.
3. I have considered the application, the affidavit in support and the applicable law. From the record, I note that the matter was already handled by the Court of Appeal. If this court ventures into handling the application on its merits would be tantamount to a disregard for the hierarchy of courts. This court has no jurisdiction to supervise a superior court. As noted above, this court has already discharged its duty and became *functus officio*. I do not understand why the applicant having exhausted his avenues of appeal has come back to this court unless he is intent on abusing the court process.
4. As a result, the application is dismissed. The applicant is directed not to file a similar application unless with the leave of court.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 12TH DAY OF MARCH 2024



D. KAVEDZA
JUDGE

