



**Maseghe v Republic (Miscellaneous Criminal Application  
E040 of 2023) [2024] KEHC 6932 (KLR) (3 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 6932 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
MISCELLANEOUS CRIMINAL APPLICATION E040 OF 2023**

**GMA DULU, J**

**APRIL 3, 2024**

**BETWEEN**

**GEORGE MASEGHE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before me is an application by way of Notice of Motion filed by George Maseghe seeking review of his sentence. No section of the law or Constitution was cited in the application.
2. The application was filed with a supporting affidavit in which it was deponed that in court of Appeal Criminal Appeal No. 12 of 2019, his conviction was upheld and sentence substituted with 30 years imprisonment resulting in him agonizing in prison while he suffers from ulcers.
3. The application was canvassed through written submissions. In this regard, I have perused and considered the submissions filed by the applicant as well as the submissions filed by the Director of Public Prosecutions.
4. In his submissions, the Applicant has stated that he was convicted of murder in High Court Criminal Case No. 12 of 2014 and sentenced to death. He thereafter appealed to the Court of Appeal in Criminal Appeal No. 12 of 2019 wherein the conviction was upheld on 29<sup>th</sup> January 2019 and sentence substituted with 30 years imprisonment.
5. He has now come to this Court to urge that in line with the provisions of Section 216 and 329 of the [Criminal Procedure Code](#) (Cap 75), considering his present health condition and the fact that he was convicted at a young age of 32, his sentence be reviewed by this court.



6. On their part, the Director of Public Prosecutions has opposed the request for review of sentence stating that this Application is an abuse of the court process and relied on the case of *Daniel Otiemo Oracha v Republic* (2019) eKLR.
7. In determining this application, I have to put it on record that I have neither been availed the trial court record nor the appeal court file, or any of the respective judgments.
8. Be that as it may, this Application will not succeed as I am informed through the pleadings filed herein as well as the submissions filed that the decision of the High Court the criminal case herein was appealed from to the Court of Appeal, which reduced the death sentence to 30 years imprisonment. The Applicant's sentence was thus substantively determined on appeal, and infact reduced.
9. This court being of lower standing in hierarchy to the Court of Appeal, cannot review the reviewed sentence imposed by the Court of Appeal, which reduced the death sentence meted by the High Court to 30 years imprisonment.
10. I thus find no merits in the application. The application herein for review of sentence is thus hereby dismissed.

**DATED, SIGNED AND DELIVERED THIS 3<sup>RD</sup> DAY OF APRIL 2024 IN OPEN COURT AT VOI.**

**GEORGE DULU**

**JUDGE**

**In the presence of:-**

Alfred/Trizah – Court Assistants

Applicant

Mr. Sirima for State

