



**Senge v Republic (Criminal Revision E012 of 2023)  
[2024] KEHC 6830 (KLR) (3 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 6830 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
CRIMINAL REVISION E012 OF 2023  
GMA DULU, J  
APRIL 3, 2024**

**BETWEEN**

**ALI JUMA SENGE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. In this matter wherein a judgment of this court on appeal in Voi High Court Criminal Appeal No. E012 of 2021 delivered on 8<sup>th</sup> June, 2022, the High Court (Mativo – J as he then was), reduced the 15 years imprisonment sentence to 10 years imprisonment and the period the applicant was in custody during trial to be counted.
2. Now, the Applicant has again come to the High Court in the present application filed on 23/04/2024 seeking the following orders
  - a. The court be pleased to grant him probation orders if the circumstances so fit
  - b. Any other orders that the court may deem fit to give in the interest of justice
3. In the grounds of Application, the Applicant states that his date of release is now 30/01/2026 and that he has less than three (3) years to the expiry of his prison sentence and that under Article 165(3), the High Court has sufficient power to entertain any Application of this nature.
4. The Application was canvassed through written submissions in this regard. I have perused and considered the submissions of the Applicant as well as the submissions filed by the Director Public Prosecution. I note that the Director Public Prosecution has addressed the Court at length on the need to amend the statute law concerning the [Probation of Offenders Act](#) and the [Power of Mercy Act](#).



5. Though I agree that there is need to harmonise the existing legislation, including the *Probation of Offenders Act*, the *power of mercy Act*, the *Community Service Orders Act*, in my view this is a case where the Applicant has already benefitted from a review of his sentence by this court.
6. He has not demonstrated any new circumstance that would justify this court to relook at his reviewed sentence.
7. In my view, due to the nature of offence committed by him and the fact that this court has already reviewed his sentence downward and since there is no disclosure of any new factor as that would justify another review of sentence, thus application for review of sentence cannot succeed
8. I must mention here that the complaint that the Probation Officer cannot submit on a sentence review respect in relation to any probation offender is not factual as this Court can order the submission of such reports, and I am not aware of any such disobedience of the orders of the court by the probation Officer.
9. I find no merits in the request for review of sentence. I dismiss the Application.

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

**GEORGE DULU**

**JUDGE**

In the presence of:-

Alfred/Trizah – Court Assistants

Mr. Sirima for State

