



**Oketch v Republic (Miscellaneous Criminal Application
E071 of 2023) [2024] KEHC 5191 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5191 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E071 OF 2023**

DO OGEMBO, J

MAY 16, 2024

BETWEEN

EVANS OUMA OKETCH APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for review of sentence and Conviction of Principal Magistrate's Court at Bondo in Sexual Offence Case No. 921 of 2016 delivered on 5/7/2017 by Hon. M. Obiero, PM)

RULING

1. The Applicant, Evans Ouma Oketch has filed an application before this court for revision of his sentence. The application filed herein on 14/6/2023 is brought under Section 333 (2) of Criminal Procedure Code. In the Affidavit in support of the application, he applicant has deponed that the was charged, tried and convicted of the offence of defilement contrary to Section 8(1) as read with Section 8 (3) of the Sexual Offences Act, No. 3 of 2006.
2. He was sentenced to serve 20 years imprisonment. That was on 5/7/2017. Appellant then filed an appeal, being Criminal Appeal No. 63 of 2017. In the sentence ruling of the court on 18/2/2020, the court observed;

“However, as the Appellant was handed the mandatory sentence, I hereby set it aside and substitute it with a prison term of 15 years imprisonment to be calculated from the date of sentencing in the lower court on 5/7/2017.”
3. So clearly, the issue of when the sentence of the Applicant runs was already dealt with by the trial judge in determining the Applicant's appeal. By asking this court to reconsider the same, the Applicant is asking this court to sit as an appellate court over the decision of a judge of concurrent jurisdiction. This court is not possessed of any such jurisdiction.



4. The application of the Applicant filed herein on 14/6/2023 is incompetent and fails. I dismiss it wholly.
It is so ordered.

DATED, SIGNED AND DELIVERED THIS 16TH DAY OF MAY, 2024

D. O. OGEMBO

JUDGE

16/5/2024

COURT

Read out in Open Court in presence of the Applicant (Rachuonyo) and Ms. Kerubo for State.

D. O. OGEMBO

JUDGE

16/5/2024

