



**Oweke v Republic (Miscellaneous Criminal Application
E044 of 2024) [2024] KEHC 5051 (KLR) (7 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5051 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E044 OF 2024**

RE ABURILI, J

MAY 7, 2024

BETWEEN

PATRICK OWINO OWEKE APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in the
High Court Criminal Case No. 05 of 2019 at Kisumu)*

RULING

1. The convict Patrick Owino Oweke was sentenced to serve ten (10) years imprisonment for the offence of Manslaughter on 9th June 2022 *vide* HCCRC No. 05 of 2019.
2. He claims that he never appealed.
3. He seeks that he be granted non-custodial sentence because the two families have reconciled.
4. There is no such ground in law for this court to review sentence lawfully imposed by a court of competent jurisdiction.
5. Initially, the convict applied *vide* HC Misc. Application No. E088 of 2022 for the application of Section 333(2) of the *Criminal Procedure Code* to take into account the period he spent in custody and the court directed him to furnish particulars – make full disclosures on when he was arrested and or whether he was on bond prior to his sentencing.
6. He has not supplied the court with proceedings that show whether he was on bond or not.
7. If the two families have reconciled as he says, the question is why they have not aided him to get court proceedings for this court to consider whether Section 333(2) of the *Criminal Procedure Code* is applicable.



8. I find the application to be mischievous. I decline to grant the orders sought.

9. The application is dismissed and the file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 7TH DAY OF MAY, 2024

R. E. ABURILI

JUDGE

