



**Wanyonyi v Republic (Miscellaneous Criminal Application  
E057 of 2024) [2024] KEHC 4991 (KLR) (9 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 4991 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E057 OF 2024**

**RE ABURILI, J**

**MAY 9, 2024**

**BETWEEN**

**RAPHAEL WANYONYI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in the Senior Principal  
Magistrate's Court Sexual Offences Case No. 50 of 2018 at Nyando)*

**RULING**

1. The Applicant is Raphael Wanyonyi. He was convicted vide Nyando SPM Sexual Offences Case No. 50 of 2018 with the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* on 10<sup>th</sup> December 2021.
2. He appealed vide Kisumu HCCRA No. E058 of 2021 which appeal was determined on 12<sup>th</sup> June 2023.
3. The court dismissed his appeal against conviction but allowed the appeal against sentence. It reduced the 20 years imprisonment to 15 years imprisonment and ordered that the 3 days he was in custody before being released on bond pending trial be taken into account.
4. The Applicant/Convict has again come back to court vide his application dated 18<sup>th</sup> April 2024 seeking that the court considers his sentence to commence from date of arrest.
5. That is exactly what the judgment in HCCRA No. E058 of 2021 pronounced and the order is annexed to his affidavit.
6. In the Criminal Appeal, the court read the charge sheet and confirmed date of his arrest, being taken to court for plea and his release on bond.



7. The convict herein wants to hood wink this court into believing that he was not on bond during trial which is a white lie as I personally heard and determined his appeal on merit.
8. This application is an abuse of court process and is hereby dismissed.
9. Signal to issue.
10. File closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 9TH DAY OF MAY, 2024**

**R. E. ABURILI**

.....

**JUDGE**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

