



**Osweya v Republic (Criminal Revision E105 of 2024)
[2024] KEHC 7367 (KLR) (11 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7367 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL REVISION E105 OF 2024
RE ABURILI, J
JUNE 11, 2024**

BETWEEN

NOAH OTIENO OSWEYA APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Winam Senior Principal
Magistrate's Court Criminal Sexual Offences Case No. E011 of 2022)*

RULING

1. The Applicant in this Revision application by way of a sworn affidavit is a convict *vide* Winam SPM Sexual Offences Case No. E011 of 2022. He was sentenced to serve 15 years imprisonment on 5th August 2022 as per the warrant of commitment to serve prison sentence annexed, for the offence of defilement contrary to Section 8(1) as read with Section 8(2) of the [Sexual Offences Act](#).
2. He claims that he appealed vide Kisumu HCCRA No. E040 of 2022 which he later withdrew.
3. He seeks sentence review on account of the decision in Machakos High Court Criminal Petition No. E017 of 2021 and urges this court to apply Section 26(2) of the [Penal Code](#) to reduce sentence to a lesser severe form of punishment.
4. The application is dated 16th May 2024.
5. I have considered the application for sentence review, under Section 8(2) of the [Sexual Offences Act](#), a person convicted of defilement shall be sentenced to serve mandatory life imprisonment.
6. The Applicant herein was given 15 years imprisonment which is extremely lenient, that on appeal which he cleverly withdrew, this court could have, on application by the prosecution for enhancement, proceeded to enhance the same.



7. The Applicant in my view is abusing the trial court's extreme discretion and the process of this court by asking this court to revise that sentence.
8. I find the application for revision of 15 years imprisonment to a lesser severe form of punishment to be devoid of any merit. The application is dismissed.
9. This file is closed.
10. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 11TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

