



REPUBLIC OF KENYA



**Wabwire v Republic (Criminal Revision E114 of 2023)
[2024] KEHC 9564 (KLR) (11 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 9564 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL REVISION E114 OF 2023
GMA DULU, J
JUNE 11, 2024**

BETWEEN

BERNARD WABWIRE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before me is an application by way of Chamber Summons filed on 1st November 2023 under Section 347 of the *Criminal Procedure Code* (Cap.75) and Article 50(2)(p) and (q) of *the Constitution*, in which the applicant herein seeks leniency and review of his current prison sentence to the least severe of the prescribed punishment.
2. The application was filed with a supporting affidavit sworn by the applicant Bernard Wabwire in which he deponed that he pleaded guilty before the trial court and was remorseful.
3. The application was canvassed through written submission and in this regard, I have perused and considered the submissions filed by the applicant, as well as the submissions filed by the Director of Public Prosecutions. I note that the Director of Public Prosecutions has opposed the application.
4. In the submissions, the applicant has emphasized that he pleaded guilty to the charge and was remorseful, and that he has children to care for, as the mother of the children has relocated.
5. On their part, the Director of Public Prosecutions opposed the request for review of sentence as Section 278A of the *Penal Code* (Cap.63) provides a sentence of 7 years for the offence, and the Magistrate after taking into account the fact that applicant was a repeat offender and the mitigating factors including his plea of guilty, sentenced him to only 4 years imprisonment.
6. On my part, having considered the application and the contra submissions, I find no merits in this request for review of sentence as I have not been shown any apparent legal or factual error committed



by trial Magistrate, for this court to invoke the provisions of Section 362 of the *Criminal Procedure Code*.

7. In addition to the above, as the applicant had a right to appeal against sentence imposed, Section 364 of the *Criminal Procedure Code*, removes powers of review from this court on initiation of the convict, who is the applicant herein. Thus the convict being the initiator of the present request for revision of sentence, this court cannot be of assistance to him. The request will thus be declined.
8. Having stated as above, in my view, under the general prison decongestion or Cso sentence revision exercise, this same court can consider review of sentence, subject to a sentence review report to be filed by the Probation Officer. If the applicant falls in that category, he can still come back to this court for reconsideration of his sentence.
9. As for the present application for review of sentence however, it is unmerited. I dismiss the application.

DATED, SIGNED AND DELIVERED THIS 11TH DAY OF JUNE 2024 IN OPEN COURT AT VOI.

GEORGE DULU

JUDGE

