



**Ngove v Republic (Criminal Revision E014 of 2024)
[2024] KEHC 9031 (KLR) (12 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9031 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL REVISION E014 OF 2024
GMA DULU, J
JULY 12, 2024**

BETWEEN

DANIEL KAGUTA NGOVE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant initially filed a Petition No. 7 of 2020, which very brief prayers, for review of sentence, which was later marked as withdrawn, by Chepkwony J. on 20th September 2021.
2. Thereafter, he filed the present Notice of Motion seeking orders that this court make appropriate orders in respect of his missing file, in order to seek review of his mandatory death sentence.
3. He also filed a written request, for the death sentence imposed on him in Criminal Case No. 73 of 1998 on 4th December 1998 and upheld in the High Court Criminal Appeal No. 427 of 1998 at Mombasa, and further upheld by the Court of Appeal in Criminal Appeal No. 151 of 2002 at Mombasa, to be reviewed and converted to probation sentence, as he had already served twenty four (24) years in jail, after his death sentence was commuted to indefinite life imprisonment.
4. The application was canvassed through written submissions. I note that in his submissions, the learned Prosecuting Counsel Mr. Sirima has asked that the application be struck out for lack of jurisdiction, and suggested that if the applicant wants the redress he seeks, then he should pursue the matter through a constitutional petition, not through a revision application.
5. Having myself considered the application and the submissions filed, I am of the view that the applicant is not contesting the constitutionality of the sentence imposed on him, but is merely asking this court to exercise its discretionary revision powers to review the life prison sentence imposed on him.



- 6. This courts jurisdiction in revision in criminal cases is anchored under section 362 and 364 of the Criminal Procedure Code (Cap.75). That jurisdiction is limited to making revision orders to correct errors on the face of the record of this court, and also to correct mistakes of law or procedure, adopted by the Magistrate’s court, not otherwise.
- 7. In my view, the sentence of the applicant herein having been determined on appeal by this court as well as the Court of Appeal, cannot be brought again to this same court to exercise its review jurisdiction, to change the life prison sentence to probation.
- 8. The fact that the life prison sentence is indefinite cannot also be dealt with by this court, through review proceedings, but can only be considered through an appeal to the Supreme Court, or through a proper constitutional petition.
- 9. As for this application, it is unmerited. I dismiss the application.

DATED, SIGNED AND DELIVERED THIS 12TH DAY OF JULY 2024 IN OPEN COURT AT VOI VIRTUALLY.

GEORGE DULU

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JUDGE

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

In the presence of:-

Alfred – Court Assistant

Applicant

Mr. Sirima for State

