



**Thomas v Republic (Miscellaneous Application E001 of 2024)  
[2024] KEHC 9035 (KLR) (8 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9035 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
MISCELLANEOUS APPLICATION E001 OF 2024**

**GMA DULU, J**

**JULY 8, 2024**

**BETWEEN**

**MORRIS MUTIE THOMAS ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This is a request for review of sentence filed by the applicant on 22<sup>nd</sup> December 2023 in Mombasa, which was sent to this court. The matter was originally a case for defilement in Taveta Principal Magistrate’s Criminal Case No 106 of 2013, wherein the applicant was sentenced to imprisonment for life. The sentence was later reviewed to 30 years imprisonment.
2. The applicant wants his 30 years prison sentence reviewed, and relies on Article 157 of the Constitution, as well as Section 364(1)(b) of the Criminal Procedure Code (Cap.75), and the Kenya Sentencing Policy Guidelines paragraph 4.1.
3. The request for review of sentence was canvassed through written submissions, in which the applicant has urged for reviewed sentence on the ground that he is a first offender, while the Director of Public Prosecutions opposes the request for review, on the ground that the applicant’s life imprisonment sentence was reviewed by the High Court to 30 years imprisonment, and thus this court has no jurisdiction to re-consider the matter.
4. Indeed, the applicant admits in his pleadings herein that he was initially sentenced to life imprisonment at Taveta for a sexual offence, which was later reviewed to 30 years imprisonment by the High Court by Ogola J in Mombasa High Court Petition No 146 of 2019.
5. That being so, this court has no powers or jurisdiction to revisit the sentence under its review jurisdiction in Section 364 of the Criminal Procedure Code (Cap.75), as this same court has already made a substantive decision on the sentence.



6. If the applicant is dissatisfied with this court's decision on the reviewed prison sentence of 30 years, let him approach the Court of Appeal.
7. I thus find that this court has no jurisdiction to exercise its review powers as requested herein. The request is accordingly declined.

**DATED, SIGNED AND DELIVERED THIS 8<sup>TH</sup> DAY OF JULY 2024 IN OPEN COURT AT VOI.**

**GEORGE DULU**

**JUDGE**

In the presence of:-

Alfred/Trizah – Court Assistants

Applicant – virtual

Mr. Sirima for State

