



REPUBLIC OF KENYA



**Amira v Republic (Miscellaneous Criminal Application E023 of 2024)
[2024] KEHC 13375 (KLR) (22 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13375 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E023 OF 2024
RE ABURILI, J
OCTOBER 22, 2024**

BETWEEN

WAKA EVANS AMIRA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Waka Evans Amira is a convict vide Siaya SPM SO Case No. 34 of 2019 where he was tried and sentenced to serve 15 years imprisonment for the offence of defilement contrary to Section 8(1) as read with section 8(4) of the *Sexual Offences Act*, on 11/1/2021.
2. He appealed to this court vide HCCRA No. E001/2021 which appeal against conviction was upheld but the appeal against sentence was allowed, reducing 15 years Mandatory minimum sentence to ten (10) years imprisonment on 27/4/2021.
3. The court also held that the sentence would be calculated from date of sentencing in the lower court.
4. The convict appealed to the Court of Appeal upon which records of appeal were forwarded to the Court of Appeal on 30/8/2021.
5. The convict is now back to this Court claiming that he was handed mandatory sentence which deprived Sexual Offenders admission to probation services since the court's hands were tied by the mandatory characteristic of the sentence. He concedes that he appealed vide Kisumu Court of Appeal Cr. Appeal No. E057/2021 but he does not say what happened to that appeal only telling this court to allow him to serve the remaining three years on probation because he has already served 3 years and that he has been rehabilitated and reformed. That he is 42 years old, has a family of four children and was interdicted by the Teachers' Service Commission on 1/7/2019 hence the family is suffering because their mother is unemployed. He pleads for probation.



6. I have considered the application by the applicant/convict.
7. I note that the convict already benefitted from the sentence reduction by this court despite the trial court having imposed lawful mandatory minimum sentence under Section 8(4) of the [Sexual Offences Act](#).
8. The convict has also exercised his right of appeal to the Court of Appeal and therefore to bring this application is a forum shopping exercise which amounts to abuse of court process. A teacher with a family to care for engaging in Sexual escapades with students or young girls to whom he is entrusted to be in *loco parentis* is not acceptable.
9. I find the application dated 5/1/2024 seeking for further sentence reduction to be devoid of any substance. The same is hereby dismissed.
10. This file is closed.

RULING DATED, SIGNED AND DELIVERED THIS 22ND DAY OF OCTOBER, 2024

R. E. ABURILI

JUDGE

