



REPUBLIC OF KENYA



**Oudo v Republic (Criminal Revision E195 of 2023)  
[2023] KEHC 3592 (KLR) (Crim) (19 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3592 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL REVISION E195 OF 2023  
DR KAVEDZA, J  
APRIL 19, 2023**

**BETWEEN**

**EMMACULATE ATIENO OUDO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. I have gone through the applicant's undated application and the undated supporting affidavit. Notwithstanding that the application is undated, I shall take that as a procedural technicality due to the fact that the applicant is in prison. He may have not had proper legal guidance. Mostly, inmates use paralegals who are not trained lawyers to draft their pleadings. I shall consider the application as properly filed and proceed to interrogate its merit.
2. The applicant was sentenced pursuant to a plea agreement negotiated between herself and the prosecution. The sentence was therefore properly passed by the trial court. The applicant lost her right of appeal under section 137L of the *Criminal Procedure Code*.
3. She has now prayed for a non-custodial sentence. Under the law, (section 364 of the *Criminal Procedure Code*), this court can only interfere with the sentence of a lower court if there are issues of impropriety of failure to adhere to the procedure or to check the correctness of the record.
4. However, where the High Court itself has passed the sentence the applicant can only seek review of the sentence if there is an error on apparent on the record. For instance, failure to consider the period spent in custody, or where the sentence passed is unlawful. The applicant has not demonstrated to this court any the reason that would call into question the sentence passed by the court. This is not a matter that falls within the jurisdiction of this court under the *Community Service Order Act*.

The application lacks merit and it is hereby dismissed.



**RULING, READ AND DELIVERED ON 19<sup>TH</sup> DAY OF APRIL, 2023**

.....

**DIANA KAVEDZA**

**JUDGE**

