



**DOO v Republic (Miscellaneous Criminal Application 117 of 2023)
[2024] KEHC 14332 (KLR) (8 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14332 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION 117 OF 2023
RE ABURILI, J
NOVEMBER 8, 2024**

BETWEEN

DOO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant DOO is a convict for the offence of defilement contrary to Section 8(1) as read with Section 8 (4) of the [Sexual Offences Act](#). He was sentenced to serve 15 years imprisonment on 23/3/2017 vide Siaya PM SO Case No. 720/2016.
2. He appealed vide Siaya HCCRA 33/2017 which appeal was dismissed on 19/11/2018.
3. He now applies vide his Chamber summons dated 4/1/2023 for sentence rehearing and for the period spent in remand custody to be considered.
4. I have considered the application and the written submissions filed on 13/12/2023 as directed by the court.
5. The applicant exercised his right of appeal wherein he should have raised all issues to do with sentence. He submits that he was reformed hence he should be set free to serve probation under the [Community Service Orders Act](#) and that the 9 months spent in custody prior to sentencing be taken into account.
6. From the trial court record which was availed, on 26/8/2016, the convict herein was granted bond of Kshs 500,000/= plus one surety of similar amount.
7. There is however no evidence that he was released on bond. However, the convict filed an appeal wherein he should have raised the period spent in custody. That said, I decline to review the sentence to probation as sought and allow the second limb. The sentence imposed shall be calculated from date of arrest on 26/7/2016 to 23/3/2017.



8. Signal to issue. This file is closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 8TH DAY OF NOVEMBER, 2024

R.E. ABURILI

JUDGE

