



REPUBLIC OF KENYA



KENYA LAW
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**Kamaye v Republic (Miscellaneous Criminal Application E216 of 2024)
[2024] KEHC 13681 (KLR) (7 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13681 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E216 OF 2024
RE ABURILI, J
NOVEMBER 7, 2024**

BETWEEN

ROBERT AKOLO KAMAYE APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Winam Senior Principal
Magistrate's Court Criminal Sexual Offences Case No. 34 of 2019)*

RULING

1. The applicant Robert Akolo by his application dated 24th October 2024 is a convict in Winam SPM Sexual Offences Case No. 34 of 2019. He was sentenced to serve 10 years' imprisonment for the offence of defilement contrary to Section 8(1) (4) of the *Sexual Offences Act*.
2. He claims that he applied vide Kisumu HC Misc. Criminal Application No. E042 of 2024 which was dismissed for lack of merit. He now applies for probation sentence because he is reformed as per the annexed certificates and recommendations by prisons authorities.
3. I have considered the application and I find no reason to interfere with the lawful sentence imposed by the trial court which sentence was upheld in HCCRA No. E27 of 2022 and a similar application for sentence review was dismissed vide Kisumu HC Misc. Criminal Application No. E042 of 2024.
4. This application not only lacks merit but is incompetent and is *res judicata* as well as an abuse of court process.
5. The application dated 24th October 2024 is dismissed.
6. Signal to issue.
7. File closed.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 7TH DAY OF NOVEMBER, 2024.

R. E. ABURILI

JUDGE

