



REPUBLIC OF KENYA



**Mohamed v Republic (Miscellaneous Application E022 of 2024)
[2024] KEHC 14366 (KLR) (14 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14366 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
MISCELLANEOUS APPLICATION E022 OF 2024
JN ONYIEGO, J
NOVEMBER 14, 2024**

BETWEEN

ABDIHAKIM SALAD MOHAMED APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant approached this Court vide an undated chamber summons seeking reduction of his sentence.
2. He was previously charged with the offence of dealing in the carcass of wildlife species contrary to section 98(1) as read with section 105 of the *Wildlife Conservation and Management act*, No. 47 of 2013.
3. On his own plea of guilt, he was sentenced to 3 years' imprisonment.
4. Mr. Kihara, the learned prosecutor argued the application orally while the applicant fully relied on his pleadings as filed.
5. Mr. Kihara opposed the application urging that the same lacked merit as the applicant pleaded guilty of the said charges. That nothing was demonstrated to show that the conviction and the sentence meted out were irregular. It was argued that the application ought to be dismissed as the same was bereft of any merit.
6. The applicant urged that he had stayed in prison for a period of 9 months hence already transformed. He stated that being a young father, his family was suffering for the reason that they lacked a provider. He prayed for consideration by this court on grounds that he is the sole breadwinner. It was his submission that he was remorseful for his actions and further promised that should his plea be considered, then he will use that opportunity to transform others.



7. I have carefully considered the application together with the submissions before me. The only issue for determination is whether this court ought to reduce the sentence meted out on the applicant.
8. It is pertinent to note that the High Court's supervisory jurisdiction which includes its revisional jurisdiction is limited to revision of orders or sentences passed by subordinate courts in criminal proceedings. A reading of sections 362 to 367 of the Criminal Procedure Code makes this legal position very clear.
9. This position is further buttressed by article 165 (6) of *the Constitution* which provides that:“(6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.”
10. It is trite that the jurisdiction of the High Court on Revision is to correct manifest irregularities and illegalities occasioned before the subordinate courts. The applicant has not pointed out any irregularities or illegalities. He is urging the court to consider that he is the sole bread winner of his family hence this court ought to reduce his sentence.
11. In the instant case, it is my clear view that in matters where a party ought to appeal against a determination having been aggrieved, then the right channel as provided for by the law is an appeal and not revision.
12. By reason of the forgoing, I find that the application herein seeking orders of review of sentence is an abuse of the court process hence dismissed.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 14TH DAY OF NOVEMBER 2024

J. N. ONYIEGO

JUDGE

