



**Ochieng v Republic (Miscellaneous Criminal Application
E212 of 2024) [2024] KEHC 13862 (KLR) (7 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13862 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E212 OF 2024
RE ABURILI, J
NOVEMBER 7, 2024**

BETWEEN

KENNEDY OTIENO OCHIENG APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Winam Senior Principal
Magistrate’s Court Criminal Sexual Offences Case No. 24 of 2016)*

RULING

1. The Applicant Kennedy Otiemo Ochieng is a convict in Winam SPM Sexual Offences Case No. 24 of 2016 for the offence of defilement contrary to Section 8(1) (4) of the Sexual Offences Act. He was sentenced to serve 15 years’ imprisonment.
2. On appeal vide HCCRA No. 62 of 2019, the appeal was dismissed. He now applies for review of sentence to Probation because he has serve 1/3 of the sentence, that he is HIV Positive and diabetic. That he seeks lenience as he has been rehabilitated through courses undertaken while in prison.
3. I have considered the application and the affidavit in support all dated 17th October 2024.
4. I find no merit in the application as this court has no residual jurisdiction to reduce sentence in sexual offences where such sentence is lawful and is upheld by the High Court on appeal.
5. I decline to interfere with the sentence imposed.
6. The application dated 17th October 2024 is dismissed.
7. Signal to issue.
8. This file is closed.



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

R. E. ABURILI

JUDGE

