



**Opiyo v Republic (Miscellaneous Criminal Application 16 of 2024)
[2024] KEHC 15416 (KLR) (6 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15416 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION 16 OF 2024**

**DR KAVEDZA, J
DECEMBER 6, 2024**

BETWEEN

FREDRICK OMONDI OPIYO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted on two counts of the offence of stealing by servant contrary to section 268(1) as read with section 281 of the Penal Code. He was sentenced to pay a fine of Kshs. 200,000 and in default to serve one (1) year imprisonment.
2. He filed the present undated application received on 19th November 2024, where the applicant prayed for a non-custodial sentence, stating that he has served a sufficient portion of his sentence in prison and that he is remorseful.
3. I have considered the application, the grounds in support and the applicable law. From the record of the trial court, the court considered the applicant’s mitigation, the time spent in remand custody and the fact that the applicant was a first offender before sentencing. Having considered the application in its totality, I find that the sentence imposed was proper in the circumstances of the case.
4. In view of the aggravating circumstances during the commission of the offence, the applicant is to serve his sentence to completion.
5. The application hereby dismissed for lacking in merit.

RULING DATED AND DELIVERED VIRTUALLY THIS 6TH DAY OF DECEMBER 2024.

D. KAVEDZA



JUDGE

