



Ouma alias Japor v Republic (Criminal Miscellaneous Application E084 of 2024) [2024] KEHC 15582 (KLR) (6 December 2024) (Ruling)

Neutral citation: [2024] KEHC 15582 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION E084 OF 2024**

**DK KEMEL, J
DECEMBER 6, 2024**

BETWEEN

OTOMAS OTIENO OUMA ALIAS JAPOR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Otomax Otieno Ouma was charged with an offence of handling stolen goods Contrary to Section 322 (1) (2) of the [Penal Code](#) before the Ukwala PM's Courts vide Criminal Case No. E134/2023 and was sentenced to serve four years imprisonment.
2. The applicant being dissatisfied with the trial court's decision, he filed an application seeking review against conviction and sentence vide Siaya HC Misc. Rev. E077/2024. The application was duly considered by Justice Ogembo on 16th April, 2024 and it was ordered that the Applicant serves his sentence thus the revision request declined.
3. The applicant is now back seeking revision of sentence vide Siaya HC Misc. Cr. Application No. E084/2024. It is not in dispute that the Applicant has not lodged an appeal against the conviction and sentence of the trial court as well as this court's revision dated 16/4/2024.
4. I have duly considered both the Applicant's sentiments as well as those of the Respondent. It is noted that the Applicant has not lodged an appeal against the conviction and sentence as well as this court's revision.
5. Considering the above facts, and that this court having made an earlier determination on the issue regarding the revision, this court is rendered functus officio and cannot revise its own determination.



The term “functus” is defined at page 840 of *Jowitts Dictionary of English Law* 2010 Edition as: -

“functus officio (having discharged its duty), an expression applicable to a Judge, magistrate or arbitrator who has given a decision made an order of award so that his authority is exhausted.”

6. The Applicant should have moved to the higher courts if still aggrieved but not to come back again yet this court is already functus officio. The applicant seems to be engaging in lottery with the courts which is not permissible. I find the Applicant’s application to be an abuse of court process.
7. In light of the foregoing, it is my finding that the applicant’s application lacks merit. The same is dismissed.

DATED AND DELIVERED AT SIAYA THIS 6TH DAY OF DECEMBER, 2024.

D. KEMEI

JUDGE

In the presence of:

Otomas Otieno Ouma..... Applicant

Mocha.....For Respondent

Ogendo.....Court Assistant

