



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**MISC. CRIMINAL APPLICATION NO. E093 OF 2021**

**CORAM: HON. R.E. ABURILI J**

**FREDRICK OTIENO OMONDI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Application for Sentence Review against sentence in Ukwala Senior Resident Magistrate's Court in Cr. Case No. 93 of 2017 and Siaya HCRA No. 86 of 2017 on 5.5.2020)*

**RULING OF THE COURT**

1. I have considered the application filed on 10/8/2021 for review of sentence imposed on the applicant being 15 years imprisonment which according to the applicant, was reduced to ten (10) years imprisonment which he says was a slight relief.
2. He now, in his application seeks for compensation for the period he spend in custody in accordance with Section 333(2) of the Criminal Procedure Code, claiming to be the sole bread winner of his family which is incapacitated and going through hardship in all aspects of life.
3. From the heading of the application which is not even supported by any validly a sworn affidavit, the applicant was convicted by the lower court in Ukwala SRM Cr. 93/2017 of the offence of Manslaughter and sentenced to serve 15 years imprisonment. He appealed to this court and vide HCRA No. 86/2017, his appeal against the conviction and sentence, the appeal was heard on merits and allowed in part. This court upheld the conviction and dismissed the challenge thereof, but allowed appeal against sentence by reducing the fifteen years imprisonment to ten (10) years imprisonment. This is according to the applicant.
4. The convict/applicant is back into court seeking for review of the “ten years imprisonment reimposed on him, a reduction from 15 years imprisonment”.
5. Whatever the mitigating factors the applicant has were considered by the trial court and this court on appeal.
6. This court has accessed the judgment in HCRA 86/2017 delivered on 5/5/2020 and is unable to find any order for reduction of sentence to ten years. “The judgment is clear that the appeal against conviction and sentence, fails and the same is hereby dismissed.” The applicant is therefore being mischievous and misleading this court.
7. This court considered all factors in the Appeal HCRA 86/2017. It has no jurisdiction to sit on its own appeal in the name of “review” of sentence that it upheld.
8. Accordingly, I find this application to be an abuse of court process. I dismiss it and order that this file be closed.
9. Orders accordingly.

**Dated, signed and Delivered at Siaya this 16<sup>th</sup> Day of September 2021.**

**R.E. ABURILI**

**JUDGE**