

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

MISC. CRIMINAL APPLICATION NO. E092 OF 2021

CORAM: HON. R.E. ABURILI, J

JULIUS OMONDI ODERO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Sentence Review against sentence in Ukwala Senior Resident Magistrate's Court in Cr. Case No. 200 of 2014)

RULING

1. The Applicant herein Julius Omondi Odero by his application filed on 10/8/2021 claims that he was convicted for the offence of rape contrary to Section 140 of the Sexual Offences Act and sentenced to 15 years imprisonment vide Ukwala SRM Cr. Sexual Offence No. 200 of 2014. He is now before this court seeking for sentence Review under Article 22(1) and 23(3) of the Constitution.
2. He asserts that he has done a course of carpentry and joinery and obtained grade test 3 and 2 in prison which will help his life while in prison. That he is a first offender and has a young family. No Affidavit is sworn to accompany the application by way of Notice of Motion.
3. The applicant does not state whether he filed any appeal against conviction and sentence and or the outcome thereof.
4. I have considered the application for review of sentence lawfully imposed by the trial court.
5. There is no evidence of any appeal lodged.
6. The applicant has cited Articles 22 and 23 of the Constitution which relate to Enforcement of Bill of Rights and Authority of Court to uphold and enforce the Bill of Rights respectively. He has however not disclosed any of his constitutional rights that have been violated by the 15 years imprisonment that he is lawfully serving.
7. In the absence of an appeal and or evidence or irregularity or illegality of proceedings leading to the conviction and sentencing of the applicant herein by the lower court, this court does not enjoy any judicial discretion to review lawful proceedings and sentence imposed by the lower court.
8. Accordingly, the application filed on 10/8/2021 is found to be devoid of any merit and is hereby dismissed.
9. File closed.
10. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 16TH DAY OF SEPTEMBER 2021

R.E. ABURILI

JUDGE