

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL APPEAL NO 37 OF 2019

VICTOR MUNENE NDUMBI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

Appeal from original Conviction and Sentence in Nanyuki CM

Sexual Offence Case No 49 of 2018 – N Thuku, PM)

R U L I N G

1. The Appellant herein, **VICTOR MUNENE NDUMBI**, was convicted after trial of *defilement of a child* contrary to **section 8(1) & (2)** of the *Sexual Offences Act, 2006* and sentenced to life imprisonment on 20/08/2019. He appealed against both conviction and sentence.
2. The appeal was scheduled to be heard on 05/10/2021, but on 07/06/2021 the Appellant applied to court to be supplied with an advocate at public expense to argue the appeal for him. Learned counsel for the Respondent sought time to peruse the record of appeal in order to determine if he would concede or object to this request. On 22/09/2021 the learned counsel informed the court that he objects to the request by the Appellant upon the ground that there was nothing complex or novel in the appeal to justify the public expenditure.
3. An appellant does not have a constitutional right to an advocate at public expense if he is unable to afford one himself, unlike an accused person at trial. Such an advocate can however be supplied at the discretion of the court. That discretion will usually be exercised in an appellant's favour where the appeal at hand is complex and/or involving a novel or unusual point of law. I have perused the record of appeal herein. I find nothing complex, unusual or novel in the appeal.
4. In the result the Appellant's request to be supplied with an advocate at public expense is hereby refused. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 13TH DAY OF OCTOBER 2021

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 14TH DAY OF OCTOBER 2021