

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CONSTITUTIONAL PETITION 1 OF 2020

(CORAM: R. E. ABURILI - J.)

BILLY DANIEL OKUDO.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

(Being a Petition for resentencing in Bondo PM's court, Criminal Case No. 841 of 2008 and Kisumu HC CRA No. 96 of 2012)

JUDGMENT

1. The petitioner claims that he was convicted and sentenced under section 8(3) of the Sexual Offences Act No. 3 of 2006 and that he was sentenced to serve life imprisonment vide ***Bondo PM's court, Criminal Case No. 841 of 2008***. He never annexed copy of judgment or charge sheet to this petition hence the court could not confirm the sentence meted out. He also claims that he appealed to the High Court at Kisumu vide HCRA No. 96 of 2012 which appeal was dismissed. He has not demonstrated that he challenged that judgment of the High Court to the Court of Appeal.
2. That being the case, it is my humble view that this court is functus officio and lacks jurisdiction to review its own judgment on sentence where the same was upheld by a court of concurrent jurisdiction, and which decision was never challenged before the Court of Appeal.
3. The Petition is hereby dismissed and the file is closed.
4. Orders accordingly.

Dated, signed and delivered at Siaya, this 18th day of February, 2020

R.E. ABURILI

JUDGE

In the presence of:

Billy Daniel Okudo, Petitioner

Mr. Okachi, Senior Principal prosecution Counsel for Respondent

Court Assistants: Brenda Achieng and Modestar Mutiemani