

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT GARISSA

CRIMINAL MISC. APPLICATION NO. 24 OF 2019

PETER MWENDWA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant was charged with offence of defilement of 12 years girl contrary to section 9(1) (2) of the Sexual Offences Act No. 3 of 2006 whereof after full hearing he was convicted and sentenced to serve 12 years in Criminal Case No. 134 of 2014, Kyuso.
2. He lodged HCCRA No. 7 of 2016 at High Court, Garissa whereof after matter was heard he was sentenced to serve 10 years imprisonment.
3. However, date of commencement of the sentence was not clear as the High Court stated that the sentence order of imprisonment running from date of conviction was quashed or set aside without stating when it would start running. Thus I substitute the same order with order of sentence to run from 6/4/2014 when applicant was arrested.
4. On reduction of sentence, thus court cannot reduce sentence imposed by another judge unless it is unconstitutional and made before the decision of Supreme Court of **Muruateteu** which was delivered in December 2017.

(i) Thus to that extent application fails save on commencement period.

(ii) The sentence of 10 years imprisonment will run from 6/4/2014.

DATED, DELIVERED AND SIGNED AT GARISSA THIS 5TH DAY OF FEBRUARY, 2020.

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C. KARIUKI

JUDGE