

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISCELLEANOUS APPLICATION NO. 36 OF 2019

KENNEDY OTIENO MIEN.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The application filed on 1st November, 2019 by the applicant Kennedy Otieno Mien and his submission in court are at variance.
2. He seeks for sentence review in his submissions but the written application is for leave to appeal out of time. He claims to have been sentenced to serve 10 years imprisonment for murder on 26.7.2017 which is over 2 years ago. He does not indicate why he never filed an appeal in time and although he claims to have filed an appeal, there is no reason why he should not prosecute that appeal instead of seeking leave to appeal out of time.
3. The applicant has not demonstrated even by way of draft petition of appeal that he has an arguable appeal to be filed or that he ever asked for copies of proceedings and judgment for appeal purposes from 2017 to date.
4. This application is bad in law for laches and want of merit. This court on the other hand cannot review the sentence imposed by a court of concurrent jurisdiction.
5. The application is hereby dismissed. This file is closed.
6. Orders accordingly.

Dated, Signed and Delivered at Siaya this 19th Day of November, 2019

R.E. ABURILI

JUDGE

In the presence of:

Mr. Ngetich prosecution Counsel

Applicant in person

CA: Modestar and Brenda