

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

REVIEW NO. 01 OF 2018

JOSEPH ALEKANA MANABE.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1.The applicant herein was convicted of the offence of robbery contrary to section 296 (1) of the Penal Code and sentenced to serve 7 years imprisonment. He appealed against the conviction and the sentence before the High Court but the appeal was unsuccessful. He has now filed for a review of the sentence before this court. The grounds of review are that:

(1) The applicant has already served more than a third of the sentence imposed on him.

(2) The applicant while in custody has undergone vocational training attaining grades 1,II and III in carpentry and further earning a diploma in theology and other certificates.

(3) The appellant is a known patient of peptic ulcers.

2. The grounds under which this court may review or revise the record of a lower court are set out in section 362 of the Criminal Procedure Code that states that:-

“ The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed ,and as to the regularity of any proceedings of any such subordinate court .”

3. Revision under the said section is confined to the “correctness, legality or propriety of any finding, sentence or order recorded or passed ...” The review of the sentence that the applicant is seeking with this court does not fall among any of these. The sentence imposed on the applicant was affirmed by the judge who heard his appeal. The correctness and propriety of the sentence was considered during the appeal. There is thereby nothing illegal about the sentence. This court cannot interfere with a sentence that has been affirmed by an appeal court. The review or otherwise of the sentence falls outside the mandate of this court.

In the foregoing the application has no merits and is accordingly dismissed.

Delivered, dated and signed at Kakamega this 18th day of July, 2018

J.NJAGI

JUDGE

In the presence of :

Appellant

.....State/Respondent

.....Court assistant