



**Sakaluzi v ODPP (Miscellaneous Criminal Application E015 of 2025)
[2025] KEHC 13711 (KLR) (30 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13711 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARSEN
MISCELLANEOUS CRIMINAL APPLICATION E015 OF 2025**

JN NJAGI, J

SEPTEMBER 30, 2025

BETWEEN

SAMMY JUSTINE SAKALUZI APPLICANT

AND

THE ODPP RESPONDENT

RULING

1. The Applicant herein has filed an application seeking for review of the life sentence meted out on him upon conviction for the offence of defilement contrary to Section 8(1) as read with sub-section 8(2) of the *Sexual Offences Act* No.3 of 2006. The application is based on the grounds that the trial court in sentencing him to the mandatory sentence of life imprisonment filed to comply with the provisions of Section 216 and 329 of the Criminal Procedure code which requires that before passing sentence the court ought to receive such evidence as it thinks fit in order to inform itself as to the proper sentence to be passed. That the Judiciary Sentencing Policy Guidelines were enacted to enable the trial court impose the appropriate sentence of a convict but the mandatory nature of sentence under section 8(2) of the *Sexual Offences Act* restricted this requirement which was meant to protect the rights of the accused.
2. The application is made pursuant to section 364(1) (b) of the Criminal Procedure which gives the High court power to make an order of acquittal, alter or reverse the orders in an appeal. Therefore that this court has power to interfere with the mandatory sentence imposed by the trial court. Reliance was placed in the case of *Salim Kaingu v Republic HCCR Appl. No. 36 of 2019 (Malindi)* where the court held that it had discretion to reduce the mandatory sentence meted under the *Sexual Offences Act* and reduced the sentence from 15 years imprisonment to 10 years imprisonment.
3. I have considered the application. The Applicant is challenging the mandatory nature of section 8(2) of the *sexual offences act* which imposes a mandatory sentence of life imprisonment for defilement of a child under the age of 11 years.



4. The Supreme Court in a judgement delivered on 12th July 2024 in Republic V Mwangi: Initiative for Strategic Litigation Africa (ISLA) & 3 others (Amicus Curie) 2024 KESC 34 (KLR) held that the mandatory sentences under the *Sexual Offences Act* are lawful and remain lawful as long as section 8 *Sexual Offences Act* remained valid. This court is bound by the pronouncement of the Supreme Court.
5. In view of the foregoing, I do not find any merit in the instant application. The application is consequently dismissed

RULING DELIVERED, DATED AND SIGNED AT GARSEN THIS 30TH DAY OF SEPTEMBER 2025.

J. N. NJAGI

JUDGE

In the presence of:

Ms Mkongo for Respondent

Petitioner: Present GK Prison Malindi

Court Assistant - Rahma

