



**Mwailongo v Republic (Criminal Application E224 of 2024)  
[2025] KEHC 14079 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14079 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CRIMINAL APPLICATION E224 OF 2024  
WM KAGENDO., J  
OCTOBER 2, 2025**

**BETWEEN**

**MAXWELL MWAILONGO ..... APPLICANT**

**AND**

**THE REPUBLIC ..... RESPONDENT**

**RULING**

1. By way of a Notice of Motion dated 11th November 2024, brought under sections 397 of the Criminal Procedure Code, The applicant moved the court for orders that the sentence of 15 years imprisonment be reviewed and he be placed on probation for the remainder of the sentence.
2. He also cited clause 9.3 of the sentencing policy guidelines.
3. The background is that the applicant was charged, convicted and sentenced for the offence of murder contrary to 203 and as read with section 204 of the penal code.
4. He argued that he was a family man, a first offender and he can still be productive to society if given a chance .
5. The applicant relied on the authority in Samson Madzao Mwamunga vz Republic. In this case my sister L.J Onginjo suspended 5 years out of a 16 year sentence and the offender was to serve the 5 years on probation.
6. In this case ,The Applicant was sentenced on 3/6/2022 for the offence of murder contrary to Section 203 as read with Section 204 of the penal code.
7. The sentence was to run from 9/2/2018. He has therefore served only 7 years of the 15 years sentence.
8. The court called for a sentence review report but I note there are no overwhelmingly circumstances under which this court is called upon to re-visit the sentence of a court of equal rank.



9. In as much as the sentence review report is positive, the court is not satisfied. Accordingly, the Application to review the sentence is declined for the time being.

10. Application dated 11/11/2024 is dismissed. 11. It is so ordered

**DATED, SIGNED & DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS, THIS 02ND DAY OF OCTOBER 2025**

**HON. LADY JUSTICE W. K. MICHENI**

**JUDGE**

In the presence of the applicant in person

Mr Sirima for the state

Bebora court assistant

Dated, signed & delivered in Open Court/online through MS TEAMS, this 02nd day of October 2025

**HON. LADY JUSTICE W**

**SIGNED BY/FOR:**

**HON. LADY JUSTICE WENDY MICHENI**

**THE JUDICIARY OF KENYA.**

**MOMBASA HIGH COURT**

**HIGH COURT CRIMINAL**

**DATE: 2025-10-04 17:36:32**

