

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
MISC. CR. APPLICATION NO. E072 OF 2024

KEVIN WEKESA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

- 1.** The Applicant Kevin Wekesa was charged, tried and convicted of the offence of defilement contrary to Section 8 (1) as read with Section 8 (4) of the Sexual Offences Act No. 3 of 2006, in Bungoma PMCCR (S.O) No. 120 of 2020. He was then sentenced to 15 years jail term. His appeal vide Bungoma HCCRA No. E070/2022 was disallowed.
- 2.** The Applicant has now moved this court for review of his sentence on grounds that the meting of the 15 years mandatory minimum sentence as prescribed by Section 8 (4) of the Sexual Offences Act infringed his right to a fair hearing.
- 3.** I have perused the record of appeal in Bungoma HCCRA No. E070/2022 and I have established that the Applicant was accorded time to cross examine the prosecution witnesses and to put forth his defence.

4. As regards the imposition of the statutory prescribed minimum sentence under Section 8 (4) of the Sexual Offences Act No. 3 of 2006, this court is by virtue of article 163(7) of the Constitution of Kenya 2010, bound by the Supreme Court of Kenya decision of **R -vs- Joshua Gichuki Mwangi & others; Petition NO. 18 of 2023** where the court rendered itself on the legality of the mandatory statutory minimum sentences prescribed under Section 8 of the Sexual Offences Act; that the same are lawful and valid as long as the said Act remains in force.
5. On the balance I do find for reasons aforestated, that this application has no leg to stand on wherefore I hereby dismiss it in it's entirety.
6. This file is hereby marked as closed.

Delivered, signed, and dated at Bungoma this 14th day of October, 2025.

MWANAISHA S. SHARIFF

JUDGE.