



REPUBLIC OF KENYA



**Mongare v Republic (Criminal Revision E021 of 2025)
[2025] KEHC 16789 (KLR) (18 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16789 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL REVISION E021 OF 2025
WM MUSYOKA, J
NOVEMBER 18, 2025**

BETWEEN

CHARLES NYAKANGI MONGARE APPLICANT

AND

REPUBLIC RESPONDENT

(Arising from a sentence order in Busia MCTR No. E441 of 2025)

RULING

1. The application, dated 29th July 2025, is essentially, for bail pending revision, or, in the alternative, stay of execution of sentence. There is no prayer for revision, but I see a letter, annexed to the supporting affidavit, dated 29th July 2025, addressed to the Judge, seeking revision of the sentence.
2. When the matter came up, on 15th October 2025, for hearing of the application, Mr. Otieno dropped the prayer for bail, and sought to argue the revision. Mr. Onanda urged a preliminary objection, dated 11th August 2025, on the propriety of the application, dated 29th July 2025.
3. There is some level of untidiness in the manner the pleadings herein were filed. The principal filing is an application for bail pending remission, or stay of execution of sentence, and the revision application itself has not been filed. The original document, seeking revision, was not lodged in court, and what I see, in the file, is a copy of that letter, which is attached, as an annexure to the application.
4. Be that as it may. Guided by Article 159 of *the Constitution*, and section 362 of the Criminal Procedure Code, Cap 75, Laws of Kenya, I shall not dwell on the technicalities.
5. Revision does not require to be brought to the attention of the court formally, or through a specific procedure. The Judge need not even be moved, for he can act on his own motion, once it comes to his notice, that some order has been made by a lower court, which merits revision. Article 165(6)(7) of *the*



Constitution also empowers the High Court to call for any record of proceedings before a subordinate court or person, for the purpose of considering whether they are appropriate.

6. Mr. Otieno urged the revision sought. However, and unfortunately, the trial court records were not available, and so I have no basis for considering that record, for purposes of revision. Let the Deputy Registrar call for the said records. I shall deliver a ruling, on the revision sought, on 28th November 2025, once the original trial court records are availed.

DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, THIS 18TH DAY OF NOVEMBER 2025.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Otieno, instructed by Masiga Otieno & Associates, Advocates for the applicant.

Mr. Onanda, instructed by the Director of Public Prosecutions, for the respondent.

