

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
MISC. CRIMINAL APPLICATION NO. E127 OF 2025

ROBERT AMOLLO OKEMWA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING.

1. The applicant was charged and after a full trial, convicted for the offence of Sexual Assault contrary to section 5(1)(a)(i)(2) of the Sexual Offences Act No.3 of 2006. He was sentenced to serve thirty (30) years' imprisonment.
He filed an appeal vide Kibera Criminal Appeal No. 023 of 2023 at Kibera, where the appellant's sentence was reduced to 10 years.
2. He filed the present undated application seeking sentence review. The grounds raised are that the sentence served is sufficient rehabilitation and poor health conditions. He urged the court to release him.
3. I have carefully considered the application, the grounds advanced in support, and the applicable legal provisions. From the record of the trial court, it is evident that the learned magistrate duly considered all relevant mitigating factors before passing sentence. The court took into account the applicant's mitigation, his status as a first offender, and the period spent in remand custody. The sentencing court therefore exercised its discretion properly and within the confines of the law.

4. The record further shows that the decision of the magistrate's court was subsequently reconsidered by this court on appeal, where both the conviction and sentence were thoroughly re-evaluated and affirmed. I am thus satisfied that the sentence imposed remains lawful, appropriate, and proportionate to the offence and the circumstances of the case.
5. In addition, this court has already determined the matter on appeal and is therefore functus officio. It cannot reopen or reconsider issues that have been conclusively adjudicated. The proper recourse available to the applicant, if dissatisfied, lies with the Court of Appeal.
6. In view of the foregoing, I find no sufficient reason to review the sentence imposed. The application is accordingly dismissed for lack of merit.

Orders accordingly.

**Ruling dated and delivered virtually this 12th day of
November 2025**

**D. KAVEDZA
JUDGE**

In the presence of: