

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT THIKA
CRIMINAL REVISION NO. E087 OF 2025

VINCENT KIMANI NJOROGE.....
APPLICANT

VERSUS

REPUBLIC.....
.....RESPONDENT

R U L I N G

Brief Facts

1. The application for determination is undated in which the applicant seeks to have his sentence reviewed.
2. The applicant states that he was convicted by Gatundu Chief Magistrate, in Criminal S.O Case No. 119 of 2014 with the offence of defilement contrary to Section 8(1) as read with 8(2) of the Sexual Offences Act No. 3 of 2006 and was sentenced to life imprisonment. The applicant appealed against the decision in High Court at Murang'a vide Criminal Appeal No. 73 of 2014 and the appeal was dismissed. The applicant states that he did not lodge an appeal to the Court of Appeal and now seeks review of sentence.

3. The applicant herein seeks for review on sentencing and asks the court to invoke Article 50(2)(p) & (q) of the Constitution and grant him a lesser sentence.

The Law

4. This court is empowered by **Article 165(6) of the Constitution of Kenya** to review a decision by a subordinate court. **Article 165(6)** provides:-

The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.

5. The applicant herein was convicted in Chief Magistrate Court in Gatundu in Criminal (SO) Case No. 119 of 2014 with the offence of defilement contrary to Section 8(1) as read with 8(2) of the Sexual Offences Act No. 3 of 2006. The applicant was sentenced life imprisonment and being aggrieved by the conviction and sentence filed an appeal at High Court Murang'a Criminal Appeal No. 73 of 2014 whereby the court dismissed the appeal on 4th March 2016 and upheld the conviction and sentence.
6. **Article 50(2)(q) of the Constitution** provides that the applicant after conviction had two options: to appeal or to apply for review in a higher court. He chose to appeal to

the High Court in Murang'a and his appeal was fully heard and determined and eventually

dismissed for lack of merit. Under Article 50(2), the applicant having appealed has exhausted his constitutional rights at the time he filed H.C. Murang'a Criminal Appeal No.73 of 2014. This application is further defeated by the current Supreme Court jurisprudence on defilement cases.

7. The applicant was charged and convicted of the offence of defilement under Sections 8(1) and 8(2) of the Sexual Offences Act which offence carried a sentence of life imprisonment. The recent Supreme Court decisions have held that sentence for the offence of defilement is the one provided under Section of the Sexual Offences Act. In the Petition **R vs Julius Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR) (11 April 2025) (Judgment)** the Supreme Court set aside the sentence of 40 years imprisonment reviewed by the Court of Appeal and substituted it with life imprisonment on grounds that Section 8 of the Act forms the basis of sentencing convicts in cases of defilement.
8. This court is bound by decisions of the Supreme Court under Article 163(7) of the Constitution. The applicant by moving from one court to another has wasted precious judicial time as he tried his luck to have a second bite of his cherry.

9. The applicant under Article 50(2) appealed and is not entitled to review. The principle that litigation must come to an end serves situations like this application.

10. I find this application misconceived and incompetent. I hereby strike it out accordingly.

11. It is hereby so ordered

***RULING READ VIRTUALLY, DATED AND SIGNED AT
THIKA THIS 19TH DAY OF FEBRUARY 2026.***

**F. MUCHEMI
JUDGE**