



**Mose v Republic (Criminal Miscellaneous Application E009 of 2026)
[2026] KEHC 2712 (KLR) (24 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2712 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL MISCELLANEOUS APPLICATION E009 OF 2026
TW CHERERE, J
FEBRUARY 24, 2026**

BETWEEN

DANIEL OBIRIA MOSE. APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was convicted by in Crimianl Case No. 93 of 2014 Keroka for the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* and sentenced on 19th September 2016 to twenty (20) years imprisonment.
2. His appeal to this Court in Daniel Obiria Mose v Republic [2019] eKLR was dismissed in a judgment delivered on 14th March 2019 Being dissatisfied, he preferred a second appeal to the Court of Appeal in Mose v Republic [2024] KECA 1466 (KLR), which appeal was dismissed on 25th October 2024, the conviction and sentence having been upheld in their entirety
3. Once a final judgment has been rendered and affirmed by the appellate court, the doctrine of functus officio bars the trial court from re-engaging with the merits of that decision. Upon dismissal of the second appeal, that determination became the final pronouncement on both conviction and sentence, thereby divesting this Court of jurisdiction to revisit or interfere with the sentence.
4. The provisions of section 333(2) of the Criminal Procedure Code relied upon by the Applicant, do not clothe this Court with jurisdiction to rehear, vary, or reduce a sentence that has already been considered and confirmed on appeal. To entertain the present application would amount to this Court sitting on appeal over the decision of the Court of Appeal, which it cannot do within the constitutional appellate hierarchy.
5. Accordingly, the undated Notice of Motion seeking application of Section 333(2) of the Criminal Procedure Code is dismissed for want of jurisdiction.



DELIVERED AT NYAMIRA THIS 24TH DAY OF FEBRUARY 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

Applicant - Present

For the DPP - Mr. Chirchir (SADPP)

