



**Nyangwara v Republic (Miscellaneous Criminal Case E048 of 2025)
[2026] KEHC 2845 (KLR) (26 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2845 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
MISCELLANEOUS CRIMINAL CASE E048 OF 2025
TW CHERERE, J
FEBRUARY 26, 2026**

BETWEEN

PETER NYANGWARA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant, Peter Nyangwara, has filed this Application dated 17th November 2025 seeking a review of his sentence. He was convicted of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* No. 3 of 2006, following trial at Keroka in Criminal Case SO 459 of 2017. He was sentenced on 08th January 2018 to serve twenty (20) years imprisonment.
2. Appellant's appeal against both conviction and sentence in Peter Nyangwara v Republic [2018] KEHC 3528, was dismissed by this Court on 26th July, 2018. Subsequently, Applicant filed Nyangwara v Republic (Criminal Revision E047 of 2022) [2023] KEHC 4156 (KLR) (11 May 2023) (Ruling) seeking review of sentence and the same was dismissed for want of jurisdiction on 11th May 2023.
3. The Applicant now seeks a further review of his sentence invoking, inter alia, the constitutional provisions under. In support of this application, the Applicant has filed various certificates of rehabilitation, including paralegal training from Kituo Cha Sheria and Biblical Studies diplomas obtained while in prison. He further relies on a positive recommendation letter from the Officer-in-Charge, Kisii Main Prison, dated 20th May 2024. He additionally seeks credit for the period he spent on remand from 24th May 2017 to 08th January 2018 pursuant to Section 333(2) of the Criminal Procedure Code.
4. The present Application constitutes a second attempt at sentence review before the High Court. It invokes Articles 19(1), (2), 22(1), 23(1), 25(a)(c), 27(1)(2), 28, 50(R)(p)(q), 159(2)(9) and 165(3) (a)(b)(c)(d)(1) of *the Constitution* of Kenya 2010. Applicant additionally relies on certificates of



rehabilitation and a recommendation letter from the Officer-in-Charge, Kisii Main Prison dated 20th May 2024, and seeks credit for time spent in remand from 24th May 2017 to 08th January 2018 under Section 333(2) of the Criminal Procedure Code. The authorities cited include *Evans Wanjala Wanyonyi v Republic* [2019] eKLR, *Christopher Ochieng v Republic* [2011] KEHC 2364 (KLR), *Jared Koita Injiru v Republic (Criminal Appeal 93 of 2014)* [2018] KECA 78 (KLR), and *Maingi & 5 others v Director of Public Prosecutions & another (Petition E017 of 2021)* [2022] KEHC 13118 (KLR).

5. The issue for determination is whether this second review application is properly before the Court.
6. The Applicant's conviction and sentence were affirmed on appeal, and his subsequent application for revision was dismissed for want of jurisdiction. The present motion seeks to revisit a sentence that has already been conclusively determined.
7. Following dismissal of a first appeal, any further challenge lies by way of a second appeal to the Court of Appeal on a point of law.
8. Further to the foregoing, the Supreme Court in *Francis Karioko Muruatetu & Another v Republic* [2017] eKLR, the Supreme Court invalidated the mandatory death penalty for murder. In *Francis Karioko Muruatetu & Another v Republic; Katiba Institute & 5 Others (Interested Parties)* [2021] eKLR, the Court confined that holding to Section 204 of the Penal Code and directed that challenges to other statutory minimum sentences be brought by way of constitutional petition.
9. The Applicant was sentenced under Section 8(3) of the *Sexual Offences Act*, which prescribes a minimum term of twenty years. The sentence imposed accords with the statute. In light of the Supreme Court's clarification, this Court cannot reduce it through a miscellaneous review application.
10. Any constitutional challenge to Section 8(3) must be mounted through a properly instituted petition. The question of credit under Section 333(2) formed part of the sentencing framework considered on appeal and cannot be reopened here.
11. In the result, the Application is devoid of merit, constitutes an abuse of the court process, and is hereby dismissed.

DELIVERED AT NYAMIRA THIS 26TH DAY OF FEBRUARY 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Anita

Accused - Present in person

For the DPP - Ms. Kiptanui

