



**PKL v Republic (Criminal Petition 1 of 2023)
[2026] KEHC 2368 (KLR) (26 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2368 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL PETITION 1 OF 2023
JK NG'ARNG'AR, J
FEBRUARY 26, 2026**

BETWEEN

PKL PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. Through his Application filed on 20th February 2023, the Petitioner sought resentencing.
2. The Petitioner stated that he was charged and convicted for the offence of incest contrary to section 20(1) of the *Sexual Offences Act* in Criminal Case Number 211 of 2010 (Bomet Principal Magistrate's Court) and was sentenced to life imprisonment. That he lodged an Appeal in this court i.e. Bomet High Court Criminal Case Number 39 of 2010 and the Appeal was dismissed. The Petitioner further stated that the High Court declared the application of minimum mandatory sentences as being unconstitutional and this was the ground upon which he premised his prayer for resentencing.
3. It was the Petitioner's prayer that this court grants him a lenient sentence and consider the time he had already spent in remand in accordance to the provisions of section 333(2) of the Criminal Procedure Code.

Response

4. Through their Grounds of Opposition dated 19th November 2025, the Respondent submitted that this court having dismissed the Petitioner's Appeal was now functus officio and could not entertain further applications for review of the sentence. They further submitted that the provisions of section 333(2) of the Criminal Procedure Code were not applicable as he was sentenced to life imprisonment.



Analysis and determination

5. From the above, it is clear that the Petitioner was charged and convicted for the offence of incest. He was sentenced to life imprisonment. His Appeal against his conviction and sentenced was dismissed by this court.
6. As a general rule, the High Court can only review the Judgment of a subordinate court as provided for under sections 362 to 364 of the Criminal Procedure Code. This court therefore does not have the jurisdiction to review its own decision. In *John Kagunda Kariuki v Republic* [2019] KEHC 5480 (KLR), Ngugi J. (as he then was) held that: -

“In the present case, the Applicant’s appeal has already been heard by the High Court. He cannot return to the High Court for a review of the sentence imposed. He is at liberty to make an argument for reduced sentence at the Court of Appeal”.

7. In the case of *Daniel Otieno Oracha v Republic* [2019] KEHC 865 (KLR), the Petitioner had applied for review of a sentence imposed by a court of concurrent jurisdiction and Aburili J. held that: -

“The law abhors that practice of a judge sitting to review a judgment or decision of another judge of concurrent jurisdiction. Reduction of sentence could only be considered by the Court of Appeal or if this court was sitting on appeal of a judgment of the subordinate court or if the petitioner was seeking for resentence after exhausting appeal mechanisms and not otherwise.....

The judgment of Abida Ali-Aroni J made in accordance with the law has not been challenged. This court cannot sit on appeal of its own judgment or of court of concurrent competent jurisdiction when the Petitioner had an opportunity to ventilate his grievance before the Court of Appeal even if it was to challenge sentence alone.

Good governance demands that cases be handled procedurally in the right forum. This is because the rule of the thumb that superior courts cannot sit in review/appeal over decisions of their peers of equal and competent jurisdiction much less those courts higher than themselves and that matters falling under the exclusive jurisdiction of Supreme Court under Article 163(3) cannot be dealt with by the High Court.....”

8. It is my finding that any further recourse that the Petitioner has in regards to his sentence lies in the Court of Appeal and not in this court.
9. In the end, I find that this court has no jurisdiction to review the sentence imposed on the Petitioner. Accordingly, the Application lacks merit and the same is dismissed. File is closed.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 26TH DAY OF FEBRUARY, 2026.

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HON. JUSTUS K. NG’ARNG’AR
JUDGE

Ruling delivered in the presence of:

Siele/Susan (Court Assistants)

No appearance for the parties

