



**Samuel v Republic (Criminal Revision E001 of 2026)  
[2026] KEHC 2844 (KLR) (24 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2844 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL REVISION E001 OF 2026  
TW CHERERE, J  
FEBRUARY 24, 2026**

**BETWEEN**

**BOAZ NYANOTI SAMUEL ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before Court is the Notice of Motion dated 14<sup>th</sup> January 2026 in which the Applicant seeks, inter alia, a declaration that the enhancement of his sentence on appeal was unconstitutional for want of notice, and that the sentence of twenty (20) years imprisonment be set aside and the earlier sentence reinstated.
2. The Applicant was convicted by the trial court of the offence of defilement and sentenced to ten (10) years imprisonment. He appealed against conviction and sentence. In a judgment delivered on 17<sup>th</sup> March 2022 in *Boaz Nyanoti Samwel v Republic* [2022] KEHC 1108 (KLR), the appeal against conviction was dismissed. However, upon considering the question of sentence, the Court found that the term of ten (10) years imprisonment imposed by the trial court was unlawful, as it fell below the statutory minimum prescribed under section 8(3) of the *Sexual Offences Act*. Consequently, the Court set aside the illegal sentence and substituted it with the lawful minimum sentence of twenty (20) years imprisonment.
3. The sole issue for determination is whether this Court has jurisdiction to revisit, review, vary or set aside the sentence imposed in its own appellate judgment.
4. It is settled law that once a court has rendered a final judgment in the exercise of its jurisdiction, it becomes functus officio. The doctrine of functus officio precludes a court from re-engaging with the merits of a matter that it has conclusively determined. A court cannot sit on appeal against its own decision.



5. The enhancement of sentence was effected through a formal appellate judgment of this Court. If the Applicant was dissatisfied with that enhancement, the proper legal avenue was to lodge a further appeal to the Court of Appeal in accordance with the law.
6. This Court does not possess supervisory or appellate jurisdiction over its own judgment rendered in an appellate capacity. To entertain the present application would amount to reopening and re-determining a matter already conclusively decided, which is impermissible.
7. Jurisdiction being foundational, and this Court lacking jurisdiction to grant the orders sought, the Notice of Motion dated 14<sup>th</sup> January 2026 is incompetent. Accordingly, the application is hereby dismissed. Top of Form

**DELIVERED AT NYAMIRA THIS 24<sup>TH</sup> DAY OF FEBRUARY 2026**

**WAMAE.T. W. CHERERE**

**JUDGE**

Appearances

Court Assistant - Hilda

Applicant - Present

For the DPP - Ms. Kiptanui

