

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIBERA

CRIMINAL APPEAL NO. E051 OF 2024

KEMONGE NESTORY OKINDO.....

.....APPELLANT

VERSUS

REPUBLIC.....RESPONDE

NT

RULING

1. The appellant was charged and, after a full trial, convicted by the Subordinate Court for one count of attempted robbery with violence contrary to section 297 (2) of the Penal Code. He was sentenced to life imprisonment. In count II, he was sentenced to serve seven (7) years imprisonment for the offence of being in possession of a firearm without a firearm certificate contrary to section 4 (1) as read with section 4(2)(a)(b) of the Firearm Act, Cap 114 Laws of Kenya. In counts III, he was charged, convicted, and sentenced to seven (7) years for the offence of being in possession of live ammunition without a firearm certificate contrary to section 4(2)(a) as read with section 4(3)(b) of the Firearms Act.
2. He filed an appeal challenging his conviction as sentence before this court in Kibera High Court Criminal Appeal No. 135 of 2025. On 15th May 2024, this court found the appeal to be lacking in merit and dismissed it on conviction. The appeal on sentence was partially successfully. The sentence of life imprisonment was

substituted with a sentence of thirty (30) years imprisonment. The sentences in counts II and III were maintained all to run concurrently

3. The appellant has now presented this fresh appeal, once again challenging the same conviction and sentence arising from the same trial.
4. The record clearly demonstrates that this court has already exercised its appellate jurisdiction over the matter and rendered a final determination. This court is therefore functus officio. Any further challenge lies only before the Court of Appeal.
5. In the circumstances, the present appeal is incompetent and amounts to a clear abuse of the court process. It is accordingly dismissed.

Orders accordingly.

**Ruling dated and delivered virtually this 19th Day of March
2026**

**D. KAVEDZA
JUDGE**