



**Muli v Republic (Criminal Revision E025 of 2026)
[2026] KEHC 4796 (KLR) (15 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 4796 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E025 OF 2026
DR KAVEDZA, J
APRIL 15, 2026**

BETWEEN

SSGT BENARD MANTHU MULI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Senior Sergeant Benard Manthu Muli, was charged before the Court Martial and, upon full trial, convicted of several offences under the [Kenya Defence Forces Act](#) and the Penal Code.
2. He was convicted on seven counts and sentenced as follows: five years' imprisonment for stealing contrary to section 91(1)(b) of the [Kenya Defence Forces Act](#); one year for possessing paper intended to resemble bank notes contrary to section 367 of the Penal Code as read with section 133 of the Act; four years for stealing by a person in public service contrary to section 280 of the Penal Code as read with section 133 of the Act; four years, one year, and one year respectively for three counts of conduct prejudicial to good order and discipline contrary to section 121 of the Act, the said sentences to run concurrently; and ten years' imprisonment for damage to property contrary to section 89(1)(a) as read with section 89(4) of the Act.
3. The applicant appealed in Criminal Appeal No. E004 of 2004. The appeal partially succeeded, this Court directing that the sentences in Counts I, III, IV, V, VI, VII and VIII run concurrently from 3 June 2023 pursuant to section 333(2) of the Criminal Procedure Code.
4. By the present application dated 22nd January 2026, the applicant seeks review of the sentence imposed on Count VIII, contending that the Court erred in failing to appreciate that section 89(4) of the [Kenya Defence Forces Act](#) prescribes a maximum sentence of fifteen years' imprisonment or such lesser punishment as may be appropriate. He urges the Court to treat his dismissal from service, loss of rank,



pension, benefits, privileges and honours as constituting a lesser punishment within the meaning of the Act.

5. He further submits through learned Counsel Mr. Bosire that no financial loss was occasioned to the Force as the monies in question were recovered, that he is a first offender, remorseful, rehabilitated, and presently incapacitated due to injuries to his hands. He accordingly prays for reduction or setting aside of the ten-year custodial sentence.
6. I have considered the application, the grounds advanced, and the record of the proceedings. The gravamen of the applicant's complaint concerns the propriety of sentence imposed upon conviction. That issue falls squarely within the province of the appellate jurisdiction already exercised by this Court in Criminal Appeal No. E004 of 2004. Save for correction of an apparent illegality or jurisdictional error, revisionary powers cannot be invoked to reopen sentencing discretion already considered on appeal.
7. The sentence of ten years' imprisonment imposed under section 89(4) of the Act is lawful, being within the statutory maximum of fifteen years. The applicant's contention that dismissal from service and forfeiture of benefits should be treated as additional punishment so as to warrant reduction of sentence is not persuasive. Such consequences flow by operation of military law and service regulations upon conviction and do not, without more, render the custodial sentence excessive or unlawful.
8. The Court also notes that the applicant's mitigation, personal circumstances, and status as a first offender were matters available at sentencing and on appeal. They do not constitute new or exceptional grounds warranting revision.
9. In the premises, I find no illegality, impropriety, or error apparent on the face of the record in the sentence imposed. The application for sentence review is without merit.
10. Accordingly, the application dated 22nd January 2026 is found to be lacking in merit and is hereby dismissed.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 15TH DAY OF APRIL 2026

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D. KAVEDZA

JUDGE

In the presence of:

Mr. Bosire for the Applicant

Mr. Mutuma for the Respondent

Karimi Court Assistant.

