



**Otieno v Republic (Miscellaneous Criminal Application
E015 of 2025) [2025] KEHC 6095 (KLR) (29 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 6095 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E015 OF 2025**

**JM OMIDO, J
APRIL 29, 2025**

BETWEEN

ALPHONCE OCHIENG' OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. I have considered the Applicant's Notice of Motion dated 20th January, 2025 that seeks review of his sentence. I have also considered the record.
2. On 23rd January, 2025, I directed the Officer in Charge at Kisumu Medium Prison to present a written report on any previous appeals, revisions or applications for review of sentence that have been preferred by the Applicant.
3. This court received a report dated 15th March, 2025 from the Officer in Charge Kisumu Medium Prison.
4. It is instructive from the report that the Appellant was convicted on the twin charges of burglary and stealing contrary to Section 304(2) as read with 279(b) of the *Penal Code* vide a judgment that was delivered by Hon. Dr. D.N. Ogoti, Chief Magistrate on 25th September, 2023 in Kisumu Chief Magistrate's Court Criminal Case No. E121 of 2023. He was subsequently sentenced to serve four years imprisonment on each of the two offences.
5. The Applicant filed before this court Miscellaneous Application No. E066 of 2024 seeking for review of his sentence. The application was heard and dismissed by Aburili J. on 9th May, 2024.
6. He subsequently proceeded to file Miscellaneous Application No. E082 of 2024 which again sought for review of his sentence. The application was dismissed by Aburili J. on 19th August, 2024 as being devoid of merit.



8. The dismissals above notwithstanding, the Applicant has now presented before me the application that is subject of this ruling, which again seeks for review of his sentence.
9. It is clear to me from the history above that the Applicant is abusing the process of this court. This court has a duty to zealously guard against such abuse. His previous applications, similar to the one before me, have been dismissed but he still has the tenacity to refile the same.
10. Although the ODPP is yet to file a response to the application, my view is that it is not one that the court should waste precious time to entertain. I will proceed to strike it out, which I hereby do.
11. In view of the Applicant's history of abusing the court process, I order that he shall not be allowed to file any other applications regarding his sentence unless he first obtains the leave of this court, through a formal application, to which he must attach a copy of this ruling.
12. A copy of this ruling to be served upon the Officer in Charge, Kisumu Medium Prison.
13. This file is closed.

DELIVERED, SIGNED AND DATED AT THIS 29TH DAY OF APRIL, 2025.

JOE M. OMIDO

JUDGE

Applicant: Present, virtually.

Respondent: Ms. Jebichii, Prosecution Counsel.

