



**Odhiambo v Republic (Miscellaneous Criminal Application  
E015 of 2022) [2025] KEHC 5017 (KLR) (25 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5017 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
MISCELLANEOUS CRIMINAL APPLICATION E015 OF 2022**

**WM MUSYOKA, J**

**APRIL 25, 2025**

**BETWEEN**

**EMMANUEL ODHIAMBO ALIAS IMBENE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant herein was convicted of defilement, contrary to section 8(4) of the *Sexual Offences Act*, Cap 63A, Laws of Kenya, and was sentenced to 15 years imprisonment, by Hon. HN Ndung'u, Chief Magistrate, in Busia CMCSOAC No 100 of 2014. He filed an appeal, in Busia HCCRA No 3 of 2016, which was dismissed on 18<sup>th</sup> August 2016, by W. Korir J.
2. He has now come before me, by an undated application, filed on 2<sup>nd</sup> September 2022, seeking review of sentence, premised on section 333(2) of the *Criminal Procedure Code*, Cap 75, Laws of Kenya, with respect to the period that he spent in custody being reckoned.
3. The applicant had a chance to appeal, which he took advantage of, through Busia HCCRA No 3 of 2016. The issue he raises now should have been one of his grounds of appeal, which the Judge would have considered in the judgement of 18<sup>th</sup> August 2016. His appeal having been disposed of, there would be no other basis for me to address issues that ought to have been dealt with in that appeal. If he was unhappy with the outcome of his appeal, he should have moved on to the Court of Appeal.
4. I do not have jurisdiction to do that which he invites me to do. The result is that the application before me, which is undated, is without merit. I hereby dismiss it. This file shall be closed. Orders accordingly.

**DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, ON THIS 25<sup>TH</sup> DAY OF  
APRIL 2025.**

**W MUSYOKA**



## **JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Emmanuel Odhiambo alias Imbene, the applicant, in person.

Advocates

Mr. Tony Onanda, instructed by the Director of Public Prosecutions, for the respondent.

