



**Oriero v Republic (Miscellaneous Criminal Application E350 of 2024)  
[2025] KEHC 12030 (KLR) (Crim) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 12030 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
MISCELLANEOUS CRIMINAL APPLICATION E350 OF 2024  
AM MUTETI, J  
JULY 31, 2025**

**BETWEEN**

**EMMANUEL OWUOR ORIERO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant in this matter seeks to have his sentence of 30 years reviewed by this court. He was convicted for the offence of manslaughter contrary to section 202 as read with 205 of the penal Code.
2. The sentence was imposed by Hon. Justice D.O Ogembo after the applicant had entered into a plea of bargain.
3. The applicant has urged this court to consider resentencing him.
4. The reason he stated is that he did not appeal against the sentence.
5. This court has been urged by the prosecution to decline the request for review of sentence on the basis that this court has no jurisdiction to review the sentence imposed by a judge of concurrent jurisdiction.
6. It is not disputed that the sentence was imposed by a Judge of this court thus the court is strictly speaking functus officio on the issue of sentence.
7. The law on plea bargain only allows an accused person the right of appeal against sentence under Section 137L and only limited to the extent or legality of the sentence.
8. A review of the sentence by the same court is not one of the options open to an accused.



9. The court thus lack jurisdiction and since jurisdiction can only flow from *the constitution* or statute, none of that is available to come to the aid of the applicant.
10. In Owners of Motor Vessel “Lillian S” Vs Caltex Oil Ltd (1989) KLR the Court of Appeal held that jurisdiction is everything and without it a court must down its tools.
11. Having determined that this court has no jurisdiction to review the sentence. the application is accordingly struck out.
12. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 31<sup>ST</sup> DAY OF JULY 2025.**

**A. M. MUTETI**

**JUDGE**

In the presence of:

Court Assistant: Kiptoo

Applicant Present in person

Omondi for Respondent

