



REPUBLIC OF KENYA



**Lomaisia v Republic (Criminal Revision E038 of 2024)
[2025] KEHC 11089 (KLR) (29 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11089 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPENGURIA
CRIMINAL REVISION E038 OF 2024**

RPV WENDOH, J

JULY 29, 2025

**COURT OF APPEAL NO. 136 OF 2018 AT ELDORET
HC.CR.APPEAL. NO. 10 OF 2017 AT KAPENGURIA
FROM SEXUAL OFFENCES CASE NO. 9 OF 2016 AT
KAPENGURIA.**

BETWEEN

CHRISTOPHER LOMAISIA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Christopher Lomaisia has brought the Notice of Motion dated 14/5/2024 seeking an order that the court do declare that the term he has served in prison is enough.
2. He deponed that he was convicted for the offence of defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act* in *Kapenguria Cr.C.10/2017* and was sentenced to twenty (20) years imprisonment; that his appeal to the High Court was dismissed and he has no pending appeal.
3. In his submissions, he introduced another ground that the court do consider the time he spent in custody before he was sentenced. He invoked section 333(2) of the *Criminal Procedure Code*.
4. The Prosecution Counsel conceded the application and stated that though the applicant approached this court on appeal and the Court of Appeal and did not succeed, he has perused the court file and noticed that the applicant was in remand for a year and therefore that period can be put into consideration.



5. I have perused the court files in which the Applicant has moved the various courts. On 6/12/2017, Justice Githinji dismissed the applicant's appeal. Being dissatisfied with that Judgment, he approached the Court of Appeal and on 17/2/2023, the Court of Appeal rendered its judgment, dismissing the appeal in its entirety.
6. The applicant has come back to this court seeking a review of his sentence under section 333(2) of the *Criminal Procedure Code*. When he was before the High court and Court of Appeal, he should have raised that as a ground of appeal. He cannot come back to this Court for redress. This court has no jurisdiction to grant the orders he seeks and the application is hereby dismissed.

File closed

DELIVERED, DATED AND SIGNED AT KAPENGURIA THIS 29TH DAY OF JULY, 2025

R. WENDOH.

JUDGE.

Ruling delivered in open court in the presence of:

Mr. Majale for the State/ Prosecution Counsel

Applicant – present

Juma/ Hellen - Court Assistant.

