



REPUBLIC OF KENYA



KENYA LAW
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**Omari v Republic (Criminal Revision E183 of 2025)
[2025] KEHC 11606 (KLR) (4 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 11606 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E183 OF 2025
RN NYAKUNDI, J
AUGUST 4, 2025**

BETWEEN

COLLINS OMARI APPLICANT

AND

REPUBLIC RESPONDENT

(Being a Revision from the Judgement of Hon. Mogire (SPM) on 5.2.2024)

RULING

Representation:

M/s Sidi for the State

1. The applicant herein was charged with the offence of breaking into a building and committing a felony contrary to section 306(a) of the *Penal Code*. The brief facts are that Collins Omari & 2 others on the 1st day of December 2023, at Roadblock Area in Turbo sub-county, within Uasin Gishu County, jointly broke and entered a shop of Mr. Simon Walais Takwar and committed therein a felony namely theft of assorted clothes worth Kshs. 71,400/=. He pleaded guilty to the offence, was convicted and sentenced to 3 years' imprisonment.

Decision

2. This same application was filed before this court by the applicant on review of sentence and the court made a decision dated 11th June 2024 in which the review of sentence was allowed and the applicants placed on probation. Essentially the latest application is res judicata. The Kenyan jurisprudence also provides principle guidelines on the application of res judicata on the administration of justice. Res judicata is a fundamental principle of the Kenyan legal system which provides legal certainty on the adjudicatory process in which a final judgment determined on the merit by the same parties cannot be reopened unless it is within the provisions of Art 50 (6)(A)(B) of the *constitution*.



3. Res judicata doctrine prevents a court from hearing a case that has already been decided by another court. It ensures finality in legal proceedings and prevents parties from repeatedly litigating the same issues. If a criminal case has reached a final judgment (e.g. an acquittal or conviction), the matter is generally considered settled, and the prosecution cannot bring a new case based on the same facts and charges unless it is on revisionary jurisdiction or an appeal. In the instance application, I reject the application on review of sentence based on the doctrine of res judicata.

DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 4TH AUGUST 2025

.....

R. NYAKUNDI

JUDGE

