



**Lumumba v Republic (Miscellaneous Criminal Application
E010 of 2023) [2024] KEHC 4124 (KLR) (25 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4124 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CRIMINAL APPLICATION E010 OF 2023**

SC CHIRCHIR, J

APRIL 25, 2024

**IN THE MATTER OF; ARTICLES 1, 2, 22, 25, 27,
47, 50, (2) .159 & 165 OF THE CONSTITUTION;**

AND

IN THE M ATTER OF SECTIONS 362, 364 [3], 367 OF THE C.P.C

AND

IN THE MATTER OF HC.ORG.CR CA NO.7 OF 2005

BETWEEN

PIUS MUTOKA LUMUMBA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Through the Notice of Motion dated 15th February 2023 and filed on 23.2.2023, the Applicant herein seeks for review of sentence and prays that the 2 remaining years of his imprisonment be served on probation.
2. The Application is based on the fact that the applicant has been rehabilitated, that he has now served 18 years in custody. He also submits that he has gained some useful skills while in custody.

Determination

3. The applicant was charged with 5 others with murder at the Kakamega high court in Criminal case No. 7 of 2005 , was convicted and the sentenced to death in April 2011.
4. On appeal to the court of Appeal in Kisumu, dismissed the Appeal



5. In his undated submissions forwarded by prisons department (Kakamega) on 8.12.2023 ,the applicant has further stated that he filed a petition for review in the high court in Kisumu on 10th February 2020 being petition number 12 of 2020 for reduction of sentence, and the sentence was reduced to 30 years, which was to run from the date of his arrest.
6. Thus, by the applicant’s own admission, his sentence has been reviewed by the high court in Kisumu. The said court is of concurrent jurisdiction as this court.
7. This court has no jurisdiction to review orders of a court of concurrent jurisdiction In effect, the high court has become *sub judice* as far as revision Application is concerned.
8. This court has no jurisdiction to grant the powers being sought and the Application is hereby struck off .

DATED, SIGNED AND DELIVERED AT NAIROBI, VIA MICROSOFT TEAMS THIS 25TH DAY OF APRIL, 2024.

S. CHIRCHIR

JUDGE

In the presence of:

Godwin- Court Assistant

The Applicant.

