



**Makusanya v Republic (Miscellaneous Criminal Application
E032 of 2023) [2024] KEHC 6843 (KLR) (30 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6843 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
MISCELLANEOUS CRIMINAL APPLICATION E032 OF 2023**

GMA DULU, J

MAY 30, 2024

BETWEEN

PAUL MAKUSANYA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before me is a request for review of sentence brought through an application filed on August 30, 2023.
2. The application is based on the provisions of article 50(2)(p) of *the Constitution* that an accused person should have the benefit of the least severe sentence prescribed by the law, and the case of *Jonah & 87 others v Kenya Prison services & 2 others* – Petition No. 15 of 2020 (2021) KEHC.
3. In the application, the applicant seeks that his prison sentence be reviewed to a probation order.
4. The application was canvassed through written submissions. In this regard, I have perused and considered the submissions filed by the applicant as well as the submissions filed by the Director of Public Prosecutions. I note that the Director of Public Prosecutions has opposed the request for review of sentence.
5. Having considered the application and rival arguments, in my view, this application is not merited, as an earlier similar application for review of sentence was determined by this court in a ruling delivered by Dorah Chepkwony J. on July 8, 2021 and the request for review of sentence was dismissed.
6. In my view therefore, unless a request for reconsideration of the sentence is brought to court under the general prison decongestion or Community Service Orders scenario, this court cannot again review the sentence herein.
7. I will add that, as was stated by this court in its ruling dated July 8, 2021, the applicant may still appeal to the Court of Appeal if dissatisfied with the decision of this court.



8. To conclude, I find no merits in this second application for review of sentence. The application is thus hereby dismissed.

**DATED, SIGNED AND DELIVERED THIS 30TH DAY OF MAY 2024 IN OPEN COURT AT VOI.
GEORGE DULU**

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JUDGE

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

In the presence of:-

Alfred/Trizah – Court Assistants

Applicant in person

Mr. Sirima for State

