



**Mogere v Republic (Criminal Revision E087 of 2024)
[2024] KEHC 6514 (KLR) (30 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6514 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL REVISION E087 OF 2024
WA OKWANY, J
MAY 30, 2024**

BETWEEN

SAMSON ONSONGO MOGERE APPLICANT

AND

REPUBLIC RESPONDENT

(From the original Conviction and Sentence in the Senior Principal Magistrates' Court at Keroka, Criminal Case No. MCCR E520 of 2021 by Hon. M. Munyekenye, Senior Principal Magistrate on 5th October 2023)

RULING

1. The Applicant was convicted for the offence of cutting down trees contrary to Section 334 (c) of the [Penal Code](#).
2. The trial court sentenced him to pay a fine of Kshs. 50,000/= or in default, to serve 18 months' imprisonment.
3. The Applicant has served 5 months of his sentence. The Sentence Review Mpaera Johnstone recommends a non-custodial sentence.
4. I have however noted that the Applicant has also filed an appeal vide HCCRA E055 of 2023 coming up on 4th June 2024 in which he was released on bond pending appeal.
5. This Court's revisionary powers in this regard are restricted by the provisions of Section 364 (5) of the [Criminal Procedure Code](#) which states, "When an appeal arises from a finding, sentence or order and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed."

Thus, this Application lacks merit and is dismissed.



Orders accordingly.

DATED AND DELIVERED AT NYAMIRA ON THIS 30TH DAY OF MAY 2024.

W.A. OKWANY

JUDGE

