

KENYA / JUDGMENT

Lokoriondo v Republic

[2026] KEHC 2679 (KLR)

[2026] KEHC 2679 (KLR)**COURT**

High Court

BEFORE

KW Kiarie

CASE / FILE NUMBER

Criminal Appeal 22 of 2023

Source: new.kenyalaw.org · Research copy typeset by Esheria. Not court-issued or certified.

Lokoriondo v Republic (Criminal Appeal 22 of 2023) [2026] KEHC 2679 (KLR) (Crim) (4 March 2026) (Judgment) Neutral citation:

[2026] KEHC 2679 (KLR) Republic of Kenya In the High Court at Nyandarua Criminal Criminal Appeal 22 of 2023 KW Kiarie, J March 4, 2026 Between Moses Gichuke Lokoriondo Appellant and Republic Respondent (From the original conviction and sentence in S.O. Case No. 1176 of 2015 of the Chief Magistrate's Court at Nyahururu by Hon. J.H.S. Wanyanga–Senior Resident Magistrate)

Judgment

1. Moses Gichuke Lokoriondo, the appellant herein, was convicted of the offence of defilement of a girl contrary to section 8 (2) of the Sexual Offences Act No. 3 of 2006. 2. The particulars of the offence were that on the 18 th day of May 2015, at [Particulars Withheld] village, within Nyandarua County, he intentionally caused his penis to penetrate the anus of P.K.M., a child aged two years. 3. The appellant was sentenced to serve 30 years' imprisonment. He has appealed against both conviction and sentence. He was in person. He raised the following grounds of appeal: a. The trial magistrate erred in law and was fatal by failing to find that the prosecution's evidence did not prove that the appellant caused his genital organ to penetrate the genital organ of the complainant. b. The trial magistrate erred in law and fact by failing to find that the medical evidence did not positively connect the injuries to the time of the offence and hence the appellant. c. The trial magistrate erred in law and fact by failing to find that the prosecution's evidence was full of glaring contradictions and discrepancies that could not sustain the charge facing the accused. d. The trial magistrate erred in law and fact by failing to find that the prosecution had not medically connected the appellant to the offence. e. The trial magistrate erred in law and fact by finding that the prosecution had proved the charge of defilement beyond a reasonable doubt. f. The trial magistrate erred in law and fact in finding a conviction that was against the weight of

evidence. g. The trial magistrate erred in law and fact by passing a harsh sentence under the circumstances and not considering that the appellant was a first offender and did not seek a presentence report. h. The sentence is too harsh, and I pray that it be quashed and set aside. 4. The respondent opposed the appeal through M/s Mwende Kavindu, learned counsel, who contended that it lacked merit. 5. This court is an appellate court. As expected, I have carefully reviewed and assessed all the evidence presented to the lower court, noting that I did not witness any of the witnesses testify. Therefore, I will follow the well-known case of *Okeno vs the Republic* [1972] E. A 32 to guide my decision-making process. 6. Section 8(1) of the Sexual Offences Act defines defilement in the following terms: A person who commits an act which causes penetration with a child is guilty of an offence termed defilement. An offence of defilement, therefore, is established against an accused person when the prosecution has proved the following ingredients: a. That there was penetration of the complainant's genitalia; b. That the accused was the perpetrator; and c. The victim must be below eighteen years old. These are the ingredients that the prosecution must prove against an accused person. 7. F.M.M. (PW3), the complainant's mother, testified that the complainant was born on August 10, 2013. However, PC Dennis Barasa (PW5) produced a clinic card indicating a date of birth of February 8, 2013. The documented date is considered accurate. As of May 18, 2015, the complainant was 2 years and 3 months old. This confirmed the complainant's age in accordance with the required standards. 8. Dr. Joseph Karimi Kinyua (PW4) testified that during his examination of the complainant, he observed bruising on the anus and noted that the sphincter muscles were loose. He concluded that the complainant had been sodomised. 9. The appellant was implicated by the evidence of P.K. (PW2), a five-year-old child, and F.M.M. (PW3), the complainant's mother. 10. PW2 stated that their father went to buy goats and left him in the corridor with the complainant. He claimed that Moses beat him and locked him there, and when he was later released, he found the complainant crying and bleeding from the mouth. There was also something on his buttocks that he couldn't see clearly. 11. The evidence of PW3, on the other hand, was that she took the complainant with her to the shop. They sat at the road. The appellant found her there. He appeared drunk. After about 5 minutes, PW2 found her at the roadside. He was from school. The complainant and PW2 followed the appellant. She proceeded to the shopping centre and returned home at about 5 p.m. This is when she discovered the complainant had a problem. 12. According to PW3, PW2 told her that the appellant accompanied the complainant to water the cows. PW2 also mentioned that he saw the appellant taking the complainant into his house. 13. Moses Gichuke Lokoriondo, the appellant, contended that he was falsely implicated due to unpaid wages. 14. The evidence of the two key witnesses contradicted each other on material aspects. The Court of Appeal in the case of *Ndungu Kimanyi vs Republic* [1979] KLR 283 (Madan, Miller and Potter JJA) held: The witness in a criminal case upon whose evidence it is proposed to rely should not create an impression in the mind of the court that he is not a straightforward person, raise suspicion about his trustworthiness, or do (or say) something which indicates that he is a person of doubtful integrity, and therefore an unreliable witness which makes it unsafe to accept his evidence. 15. The evidence from these two witnesses was unreliable, making it

unsafe to base a conviction on it. 16. The upshot of the foregoing analysis of the evidence on record is that the conviction is quashed, and the sentence is set aside. The appellant is released unless otherwise lawfully held. DELIVERED AND SIGNED AT NYANDARUA, THIS 4 TH DAY OF MARCH 2026 Kiarie Waweru Kiarie Judge

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://new.kenyalaw.org/akn/ke/judgment/kehc/2026/2679>

CASE PAGE <https://chat.esheria.ai/case-law/kenya/lokoriondo-v-republic-2026>

Prepared on 30 October 2026 · Esheria