



**Wekesa v Republic (Miscellaneous Criminal Application
E025 of 2024) [2024] KEHC 10682 (KLR) (14 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10682 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
MISCELLANEOUS CRIMINAL APPLICATION E025 OF 2024**

**REA OUGO, J
AUGUST 14, 2024**

BETWEEN

STANLEY WEKESA APPLICANT

AND

REPUBLIC PROSECUTOR

RULING

1. Stanley Wekesa, the applicant, was convicted of the offence of defilement and sentenced to 15 years' imprisonment. His appeal was dismissed by the High Court on the 6/2/22. The continues to serve the 15 years imprisonment.
2. In his application he is seeking that the court consider the time/period he was arrested and spent in remand. He relies on Section 333(2) of the Criminal Procedure Code (CPC) and *Petition No. 24 of 2019* of Ben Oketch Lajaton VS R. He states he is a first offender, he is remorseful, and is well rehabilitated and requests that the court exercises leniency.
3. The application was not opposed. Miss Matere for the prosecution submitted that this court has the jurisdiction to consider the application under section 333(2) of the CPC.
4. Under Section 333 (2) of the CPC the court is required, if the accused has been sentenced to imprisonment term to consider or take into account the period the person was held in custody before such sentence.
5. I have perused the lower court and read the judgment delivered by this court, by Justice J. M. Bwonwonga, now retired. When sentencing the accused, the trial magistrate failed to indicate that the court had taken into account the said period the applicant had been in custody. The appeal court too didn't deal with the issue on appeal.



6. The applicant was arraigned in court on 13/10/2011 and granted bond terms on 21/10/2011. He was released on bond on 21/10/2011 and was remanded in custody on 17/11/2015. He was sentenced on the 4/7/2018. The prison authority shall calculate the period spent in remand from 17/11/2015 to the date he was sentenced and subtract the same from his sentence of 15 years imprisonment.

DATED, SIGNED, AND DELIVERED AT BUNGOMA ON THIS 14TH DAY OF AUGUST 2024.

R.E OUGO

JUDGE

In the presence of:

Stanley Wekesa / Applicant - Present in person

Miss Matere - State Counsel ODDP

Diana - C/A

