



REPUBLIC OF KENYA



KENYA LAW
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**Omondi v Republic (Miscellaneous Criminal Application E105 of 2023)
[2024] KEHC 11848 (KLR) (27 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11848 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E105 OF 2023
RE ABURILI, J
SEPTEMBER 27, 2024**

BETWEEN

ERICK ODUOR OMONDI APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application for review of Conviction and sentence in Ukwala SRM's Court
vide Criminal Case No. 196 of 2021 delivered by Hon. C. I. Agutu, SRM dated 5/10/2022)*

RULING

1. The Applicant Erick Oduor Omondi was convicted of the offence of manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#). He was sentenced to serve 5 years by Hon. C. I. Agutu, SRM on 5/10/2022 after a full trial.
2. He now applies that the period spent in custody pending trial be considered as stipulated under Section 333 (2) of the [Criminal Procedure Code](#). I have perused the trial court record vide Ukwala PM CR. 196/2021. The applicant was sentenced on 5/10/2022 and indeed there is no mention of the time spent in custody.
3. The trial court record (charge sheet) shows that he was arrested on 20/3/2021. He was in custody during the trial.
4. That being the case, I find the application merited as Section 333 (2) of the [Criminal Procedure Code](#) mandates trial courts to take into account the time spent in remand custody prior to sentencing.
5. Accordingly, I hereby allow the application dated 27/11/2023 and order that the 5 years imprisonment imposed on the convict Erick Oduor Omondi shall be calculated from date of his arrest on 20/3/2021 as per the charge sheet signed and dated 13/4/2021.
6. Signal to issue.



7. This file is closed. I so order.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 27TH DAY OF SEPTEMBER, 2024

R. E. ABURILI

JUDGE

