



**Nyabwa v Republic (Miscellaneous Criminal Application  
E011 of 2023) [2023] KEHC 3085 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 3085 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E011 OF 2023  
RE ABURILI, J  
MARCH 28, 2023**

**BETWEEN**

**JACKSON OMONDI NYABWA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The convict/applicant herein Jackson Omondi Nyabwa was sentenced to serve twenty (20) years imprisonment on October 1, 2010 vide Kisumu HCCR No 52 of 2003 for the offence of murder.
2. He seeks for this court to take into account section 333(2) of the *Criminal Procedure Code* the period he spent in custody.
3. As bail in murder cases was not an automatic right prior to 2010 and in the transitional period, the case being a 2003 one, I find this application merited. I order that the twenty (20) years imprisonment imposed on Jackson Omondi Nyabwa on October 1, 2010 shall be calculated from date of his arrest.
4. The prison authorities to verify the date of arrest of the convict.
5. File closed. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 28TH DAY OF MARCH, 2023**

**R. E. ABURILI**

**JUDGE**

