



**Omondi v Republic (Miscellaneous Criminal Application
E034 of 2022) [2023] KEHC 3087 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 3087 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E034 OF 2022**

**RE ABURILI, J
MARCH 28, 2023**

BETWEEN

MARTIN ONYANGO OMONDI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Convict Martin Onyango Omondi was convicted and sentenced to serve ten (10) years imprisonment vide Winam Senior Principal Magistrate's Court Criminal Case No. 54 of 2020 on February 10, 2022 for the offence of robbery with violence contrary to section 296(2) of the *Penal Code*.
2. He prays that the court takes into account section 333(2) of the *Criminal Procedure Code* on the period spent in custody.
3. It was the duty of the Convict to apply for the lower court proceedings and file them herein for the court to peruse and satisfy itself as to whether he was in custody or on bond pending trial.
4. I find the application herein filed on March 18, 2022 devoid of material in support thereof. It is hereby dismissed.
5. The applicant can file a fresh application annexing proceedings from the lower court for consideration taking into account the fact that he has already benefitted from the least severe sentence as punishment for robbery with violence upon conviction is mandatory death. Ten (10) years imprisonment was a slap on the wrist.
6. File closed.
7. I so order.

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



R. E. ABURILI
JUDGE

