



**Otieno v Republic (Miscellaneous Criminal Application
E074 of 2022) [2023] KEHC 3088 (KLR) (28 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 3088 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E074 OF 2022**

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

BETWEEN

KEVIN OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The convict/applicant is Kevin Otieno. He was convicted and sentenced to serve three (3) years imprisonment for the offence of stealing and handling stolen property. He is 33 years old. This was vide Tamu Principal Magistrate’s Court Criminal Case No 128 of 2021.
2. The sentence was pronounced on October 18, 2021 and he claims he was arrested on March 16, 2021.
3. He prays that the period of seven (7) months and two (2) days he spent in custody be considered.
4. I have perused the lower Court’s judgment annexed and the life skills certificates obtained from prison by the convict who has undergone some transformation positively. However, in the lower court, the convict called witnesses whose evidence was impeached by the trial court as not being credible and was aimed at misleading the court to find the convict herein not culpable.
5. That notwithstanding, I hereby allow the application and order that the three (3) years imprisonment imposed on the convict herein shall be calculated from date of his arrest and time spent in prison custody prior to his being convicted.
6. The prison authorities to verify the period spent in custody upon arrest March 16, 2021 if he was not released on bond as judgment attached are not accompanied by proceedings and the charge sheet.
7. I so order.
8. File closed.



Dated, Signed and Delivered at Kisumu this 28th Day of March, 2023

R. E. ABURILI

JUDGE

