



**Francis v Republic (Miscellaneous Criminal Application  
E093 of 2022) [2023] KEHC 2982 (KLR) (27 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2982 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E093 OF 2022**

**RE ABURILI, J  
MARCH 27, 2023**

**BETWEEN**

**EVANS ONDIGO FRANCIS ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The convict/applicant Evans Ondigo Francis was convicted and sentenced to serve three (3) years imprisonment for the offence of Gang defilement contrary to section 10 of the *Sexual Offences Act*, as per warrant of commitment dated November 30, 2021 by Hon J Wambilyanga SPM vide Kisumu Chief Magistrate Sexual Offences Case No 22 of 2020.
2. He prays that the period of one (1) year and six (6) months spent in custody be taken into account with is from May 19, 2020.
3. I have considered the application. I observe that the convict was not on bond during trial. The sentence does not consider section 333(2) of the *Criminal Procedure Code*.
4. I hereby allow the application and order that The three (3) years imprisonment imposed on the convict shall be calculated from date of arrest on May 19, 2020 as stipulated in section 333(2) of the *Criminal Procedure Code*.
5. I so order. File closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 27<sup>TH</sup> DAY OF MARCH, 2023**

**R. E. ABURILI**

**JUDGE**

