



Juma alias Mercy v Republic (Miscellaneous Criminal Application E044 of 2022) [2023] KEHC 3032 (KLR) (24 March 2023) (Ruling)

Neutral citation: [2023] KEHC 3032 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E044 OF 2022**

**RE ABURILI, J
MARCH 24, 2023**

BETWEEN

DOROTHY AWUOR JUMA ALIAS MERCY APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant/convict herein Dorothy Awuor Juma *alias* Mercy by her application dated April 19, 2022 seeks that this court takes into account the period of 2¹/₂ years as part of her sentence, which period she spent in custody prior to her being convicted *vide* Kisumu HCCR No 4 of 2016 for the offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) on May 17, 2018, and being sentenced to serve fifteen (15) years imprisonment.
2. She has annexed to her application the warrant of committal to prison dated May 17, 2018. The same shows that the sentence imposed did not take into account the period spent in custody as stipulated in section 333(2) of the [Criminal Procedure Code](#).
3. Despite this court ordering for the trial court file to be availed, the same has not been forthcoming.
4. I hereby allow the application under section 333(2) of the [Criminal Procedure Code](#) and order that the sentence of fifteen (15) years imprisonment imposed on the convict shall be calculated from the date of arrest of the convict, in the event that she was not released on bond pending trial and sentencing to be verified by the prisons authorities.
5. Order/signal to issue.
6. File closed.
7. I so order.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 24TH DAY OF MARCH, 2023

R. E. ABURILI

JUDGE

