



REPUBLIC OF KENYA



**Aston v Republic (Miscellaneous Criminal Application E061 of 2023)  
[2023] KEHC 24327 (KLR) (27 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24327 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E061 OF 2023  
RE ABURILI, J  
OCTOBER 27, 2023**

**BETWEEN**

**ENOCK OLANDO ASTON ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Senior Principal Magistrate's  
Court Criminal Sexual Offences Case No E068 of 2010 at Maseno)*

**RULING**

1. I have considered the application dated 23<sup>rd</sup> June 2023 which was initially filed at Siaya High Court and transferred to this court as the lower court proceedings took place before Maseno Senior Principal Magistrate's court which is under the supervisory jurisdiction of this court.
2. The applicant is a convict vide Maseno SPM Sexual Offences Case No. E068 of 2010 where he was sentenced to serve twenty (20) years imprisonment for the offence of defilement.
3. He claims that the trial court never considered the period spent in custody as stipulated in section 333(2) of the *Criminal Procedure Code* yet he was in custody for 19 months.
4. Regrettably, the applicant does not state when he was arrested and when he was convicted and sentenced and neither did he annex any court document or proceedings to confirm that he was not on bond during the trial. This court cannot guess the date of arrest.
5. The application is found to be unsupported for consideration under section 333(2) of the *Criminal Procedure Code* and is hereby dismissed.
6. The applicant can file a fresh application with proceedings supporting his case.
7. This file is closed.



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

**R. E. ABURILI**

**JUDGE**

