



**Onyango v Republic (Miscellaneous Criminal Application
E049 of 2023) [2023] KEHC 24326 (KLR) (27 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24326 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E049 OF 2023**

RE ABURILI, J

OCTOBER 27, 2023

BETWEEN

STEPHEN ODHIAMBO ONYANGO APPLICANT

AND

REPUBLIC RESPONDENT

*(Arising from the original conviction and sentence in
High Court Criminal Case No 37 of 2014 at Migori)*

RULING

1. The applicant was convicted vide Migori HC Criminal Case No. 37 of 2014 and his appeal vide Kisumu Court of Appeal Criminal Appeal No. 04 of 2016 was dismissed.
2. He now applies to this court for consideration of the time spent in custody prior to his conviction as stipulated in section 333(2) of the [Criminal Procedure Code](#).
3. This court has not trial court record from which it can make reference and apply the Section of the law cited.
4. In addition, this court is not a conduit court for referring cases to the court of original jurisdiction.
5. The applicant who is serving in Kisumu Maximum Prison knows this very well as I have visited the said prison and addressed the convicts on which courts they should address their applications for either resentencing, leave to appeal out of time, appeals or application of section 333(2) of the [Criminal Procedure Code](#).
6. I find this application to have been deliberately filed in this court in a forum shopping exercise, especially after my visit to prisons in September 2023.
7. The application dated September 11, 2023 is hereby struck out for having been filed in a wrong court.



8. The file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 27TH DAY OF OCTOBER, 2023

R. E. ABURILI

JUDGE

