



**Otieno v Republic (Miscellaneous Criminal Application 108 of 2023)
[2023] KEHC 25769 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 25769 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION 108 OF 2023
DO OGEMBO, J
NOVEMBER 23, 2023**

BETWEEN

DENNIS OMONDI OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Dennis Omondi Otieno, has moved this court by way of a Notice of motion application dated 23/6/2023. The same seeks that the period the applicant spent in custody awaiting determination of his case be accounted for in this sentence. In his estimation, it is a period of 9 months. The Prosecution has made no submissions on the application of the applicant.
2. I have considered the application of the applicant. I have also considered the record of proceedings of the trial court. The accused was charged with the offence of Manslaughter contrary to Section 202 as read with Section 205 of the *Penal Code*. He was first arraigned in court on 28/10/2016. Upon conviction, he was sentenced to serve 10 years imprisonment. This was on 24/8/2017.
3. In the sentence proceedings of the court, the court did not specifically state the commencement date of the sentence. However, the since the date of sentence, the court considered an application for revision of the applicant's sentence in Criminal Revision No. E055 of 2022.
4. On 22/12/2022, the Hon. Justice Aburili dismissed the plea for revision of the sentence. The Plea for consideration of period served in custody was however not dealt with in the said application.
5. It is for this reason that I find merit in the application of the applicant dated 23/6/2023. I allow the same and revise the sentence of the applicant. I order that the applicant shall serve 10 years imprisonment as ordered by the trial court. This sentence shall run from 28/10/2016, the date the applicant was first arraigned in court. It is so ordered.



D.O. OGEMBO

JUDGE

23.11.2023

Court:

Ruling read out in Open court in the presence of the applicant

Ms. Mumu for State.

D.O. OGEMBO

JUDGE

23.11.2023

