



**Ingotsi v Republic (Miscellaneous Criminal Application
E014 of 2022) [2022] KEHC 10274 (KLR) (24 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10274 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CRIMINAL APPLICATION E014 OF 2022**

WM MUSYOKA, J

JUNE 24, 2022

BETWEEN

OSCAR INGOTSI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Motion dated 23rd February 2022 is premised on section 333(2) of the *Criminal Procedure Code*, Cap 75, Laws of Kenya. The applicant would like the time he spent in remand to be reckoned in determining his final sentence.
2. He avers that the trial court had sentenced him to death for robbery with violence, under section 292(2) of the *Penal Code*, Cap 63, Laws of Kenya. The death penalty was commuted to life imprisonment by the President of the Republic of Kenya. The Court of Appeal reduced the life imprisonment to twenty five years imprisonment.
3. The applicant has an arguable case. It merits consideration, but I will not be able to exercise discretion under section 333(2) of the Criminal Procedure Code, unless I have sight of the trial records, and the appeal records from the High Court and the Court of appeal.
4. Consequently, I do hereby direct the Deputy Registrar to call for the trial records in Kakamega CMCRC No. 1401 of 2008, and the judgements in Kakamega HCCRA No. 84 of 2009 and Kisumu CACRA No. 109 of 2016. .
5. The matter shall be mentioned on 28th July 2022. A production order shall issue. Copies of this ruling to be made available to the applicant and the Office of the Director of Public Prosecutions.

DELIVERED, DATED AND SIGNED AT KAKAMEGA ON THIS 24th DAY OF JUNE 2022

WM MUSYOKA



JUDGE

Erick Zalo, Court Assistant.

Oscar Ingotsi, the applicant, in person.

Mr. Mwangi, instructed by the Director of Public Prosecutions, for the respondent.

