



**Machangoh v Republic (Criminal Revision E201 of 2022)
[2022] KEHC 16929 (KLR) (Crim) (28 December 2022) (Ruling)**

Neutral citation: [2022] KEHC 16929 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL REVISION E201 OF 2022
K KIMONDO, J
DECEMBER 28, 2022**

BETWEEN

CORPORAL TYLEN K. MACHANGOH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, number 80012 Corporal Tylen Machongoh, was convicted by the Court Martial sitting at Kahawa Barracks on three counts relating to conduct to prejudice of good order and service discipline contrary to section 121 of the [Kenya Defence Forces Act](#) 2012.
2. He was imprisoned for 1 year on the first count; 18 months on the second; and, 1 year on the third. The sentences were to run concurrently.
3. I have studied the certified copy of the proceedings. At page 185, members of the court acknowledged that at the time of conviction, the applicant had been in custody for a period of one year and four months.
4. The Court Martial however did not give the applicant full credit for the time spent in remand custody. I am alive that the maximum sentence for the offences was imprisonment for 2 years.
5. The learned prosecution counsel, Ms Chege, concedes that in the circumstances, the applicant is entitled to a credit for the time spent in remand.
6. I am well guided by section 333 (2) of the [Criminal Procedure Code](#) (hereafter the Code). In addition, the Honourable Chief Justice by a circular dated December 7, 2022 has directed the High Court to carry out a prison decongestion exercise within the framework of revision under sections 362 to 364 of the Code.



7. Considering that the sentence was confirmed on July 21, 2022 and the period spent in remand, the applicant is entitled to an immediate release. I accordingly order that he be released forthwith unless otherwise lawfully held.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF DECEMBER, 2022.

KANYI KIMONDO

JUDGE

Ruling read virtually in chambers in the presence of: -

Mr.....for the applicant instructed by
Kwengu & Company Advocates.

Ms.....for the respondent instructed by the
office of the Director of Public prosecutions.

Mr. Edwin Ombuna, Court Assistant.

