



REPUBLIC OF KENYA



**Oketch v Republic (Criminal Revision 286 of 2024)
[2025] KEHC 948 (KLR) (15 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 948 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 286 OF 2024
DR KAVEDZA, J
JANUARY 15, 2025**

BETWEEN

EVANS ALUKWE OKETCH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted of the offence of robbery with violence contrary to section 295 as read with 296(2) of the [Penal Code](#). The applicant was sentenced to serve seven (7) years imprisonment.
2. He filed an application and an affidavit in support of his motion. The arguments raised are that the trial court failed to consider the time he spent in remand custody during the computation of sentence.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333 (2) of the [Criminal Procedure Code](#) obligates the court to take into account the time already spent in custody. The duty to take into account the period an accused person had remained in custody in sentencing under the proviso to section 333(2) of the [Criminal Procedure Code](#) which is couched in mandatory terms was acknowledged by the Court of Appeal in [Abamad Abolfathi Mohammed & Another vs. Republic](#) [2018] eKLR and [Bethwel Wilson Kibor vs. Republic](#) [2009] eKLR and more recently in the High Court case of [Vincent Sila Jona & 87 others vs Kenya Prison Service & 2 others](#) [2021] eKLR.
5. It is mandatory that the period which an accused has been held in custody prior to being sentenced be taken into account in meting out the sentence where it is not hindered by other provisions of the law.



6. I have gone through the sentencing proceedings and note that the trial court clearly indicated that the sentence should run from the date of plea which is 3rd March 2022. However according to the charge sheet the applicant was arrested on 1st March 2022.
7. There is an error in the sentencing proceedings in that the sentence should have run from 1st March 2022 and not 3rd March 2022. The error is accordingly corrected.
8. I thus allow the application and order that the sentence imposed shall run from March 1, 2022.
Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 15TH JANUARY 2025.

D. KAVEDZA

JUDGE

