



**Kaguni alias 240 v Republic (Criminal Petition E063 of 2023)
[2025] KEHC 2115 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2115 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL PETITION E063 OF 2023
E OMINDE, J
FEBRUARY 20, 2025**

BETWEEN

SAMSON KAGUNI ALIAS 240 PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. The Petitioner herein having had his applications against conviction and sentence as well as for the review of his sentence dismissed by this Court made an oral application seeking that as provided under Section 333(2) of the *Criminal Procedure Code*, the Court considers and factors into his sentence the period of 2 years that he was in remand custody during the trial.
2. The Application that he was charged with the offence of Defilement contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act* No 3 of 2006 Laws of Kenya, convicted and sentenced to 18 years' imprisonment.
3. Counsel for the State in his oral response to this Application stated that for reasons that the cited provision of the law is mandatory and that if indeed the applicant was in remand custody as he states then he concedes that the period that he was in remand be factored into the applicant's 18-year sentence.
4. I have perused the record of proceedings of sentencing. It does not indicate that that the period that the applicant spent in remand was included in the 18 years' imprisonment sentence. I agree with the prosecution that this provision is mandatory. The applicant took plea on 18th September 2019 and was sentenced on 28th May 2021 bringing the aggregate period to 1 year and 8 months. In this regard, I allow the Application and direct the period of 1 year and 8 months that the applicant spent in remand custody be computed in his sentence of 18 years' imprisonment.
5. Right of Appeal 14 days



READ DATED AND SIGNED AT ELDORET ON 20TH FEBRUARY 2025.

E. OMINDE

JUDGE

