



**Obara v Republic (Miscellaneous Criminal Case E024 of 2024)  
[2025] KEHC 5722 (KLR) (9 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5722 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
MISCELLANEOUS CRIMINAL CASE E024 OF 2024**

**CM KARIUKI, J**

**MAY 9, 2025**

**BETWEEN**

**JEREMIAH JAMES OBARA ..... ACCUSED**

**AND**

**REPUBLIC ..... PROSECUTOR**

**RULING**

1. The Applicant Jeremiah James Obara invokes in his Application the provisions of Section 333(2) of the *Criminal Procedure Code* Cap 75 Laws of Kenya in that his period in custody prior to conviction and sentence that is 20/03/2021 to 10/12/2021 be taken to account such that his sentence of 6 years accordingly be reduced to the extent of that period.
2. He relies on the case of *Elizabeth Mwiya Thi Syego v Republic* Misc. App 62 of 2018, where the court held that:

“It is the considered opinion of the court having had due regard to Section 333(2) of the *Criminal Procedure Code* that the appellant’s application is meritorious. Even though this court had resentenced the applicant, the nature of the application is one seeking a review of the sentence. The review sought only relates to the date when the applicant was arrested which period is needed for the purposes of Section 333(2) of the *Criminal Procedure Code*. I find this court has jurisdiction to accept the request for review and to entertain it. In any event it is not disputed that the applicant remained in custody throughout the trial and she is entitled to approach this court as the sentencing court for relief provided under Section 333(2) of the *Criminal Procedure Code*. In any event the applicant has indicated that she is satisfied with the resentence and does not intend to appeal against it save only that she wants the same to commence from the date of arrest. This court in correcting the issue of the date of arrest does not amount to sitting on appeal. The review sought only targets a small speck in the sentence earlier meted on the applicant during resentencing. It is not disputed



by the respondent that the applicant was in custody the entire period of the trial and hence is entitled to benefit under Section 333 (2) of the *Criminal Procedure Code*.”

3. The prosecution concedes as much. The court having perused the record and confirmed Applicant’s contention and having noted that the trial court in sentencing did not consider the relevant period in custody prior to sentence, I allow the application and make the orders: -
  - i. The period from 10/03/2021 to 10/12/2021 is hereby credited in the 6 years sentence met out to the Applicant.
  - ii. The prisons Officer In-charge shall ensure that his sentence of 6 years is reduced to the extent of that period.
  - iii. That 6 years period is directed to have commenced on 10/03/2021.
  - iv. Orders accordingly.

**DATED, SIGNED & DELIVERED VIRTUALLY IN KILGORIS HIGH COURT ON 9<sup>TH</sup> OF MAY 2025.**

**CHARLES KARIUKI**

**JUDGE**

In The Presence Of:

Court Assistant: Mr.Nyangaresi

