



**Akumu v Republic (Criminal Miscellaneous Application
E248 of 2024) [2025] KEHC 8846 (KLR) (20 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8846 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E248 OF 2024**

A MABEYA, J

JUNE 20, 2025

BETWEEN

ELISHA OKETCH AKUMU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. On 14/9/2020, Elisha Oketch Akumu was charged with the offence of defilement of a girl contrary to section 8(1)(2) of the [Sexual Offences Act](#) No. 3 of 2006. It was alleged that on 16/4/2020 at [Particulars Withheld], he had intentionally penetrated the vagina of E.C.A a child aged 7 years.
2. After trial, he was found guilty convicted of the offence and sentenced to 20 years' imprisonment. The Court directed that the period when the applicant was in custody during the trial be taken into consideration in computing the period of imprisonment. The applicant was in custody between 14/9/2020 and 20/7/2022, a period of 1 year and 10 months.
3. By a Motion on Notice dated 9/12/2024, the applicant has sought that the provisions of section 333(2) of the [Criminal Procedure Code](#) be taken into account in computing the period of his incarceration. The State did not oppose the application.
4. Section 333(2) of the [Criminal Procedure Code](#) provided that: -

“Subject to the provisions of section 38 of the [Penal Code](#) (Cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code. Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.”



5. I have considered the entire record. I have also considered the proceedings of the trial Court, the judgment and sentence. Although the Court ordered that the period which the applicant spent in custody during the trial be taken into account, that is not reflected in the Warrant of Commitment dated 20/7/2022.
6. In this regard, I find the application to be meritorious. I allow the same. I direct that the tabulation of the sentence of 20 years shall commence on 14/9/2020.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 20TH DAY OF JUNE, 2025.

A. MABEYA, FCI Arb

JUDGE

