



**Juma alias Osama v Republic (Criminal Miscellaneous Application E236 of 2024) [2025] KEHC 8764 (KLR) (20 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8764 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL MISCELLANEOUS APPLICATION E236 OF 2024**

**A MABEYA, J**

**JUNE 20, 2025**

**BETWEEN**

**JOSEPH OTIENO JUMA ALIAS OSAMA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Joseph Otieno Juma alias Osama, 'the applicant', was on 3/1/2023 arraigned in Court on a charge of robbery with violence contrary to section 295 as read with section 296(2) of the Penal Code Cap 63, Laws of Kenya.
2. After trial, he was found guilty, convicted and sentenced to 10 years' imprisonment. This was in the Winam SRMCR Case No. E003 of 2023 Republic v Joseph Otieno Juma alias Osama.
3. On 14/11/2024, the applicant took out a Notice of Motion seeking that the period that he was in custody during trial be taken into account. It was between 30/12/2022 and 30/9/2024 when he was sentenced.
4. Under section 333(2) of the Criminal Procedure Code, the Court is supposed to take into account the time a suspect has spent in custody during trial. The section provides: -

“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. In the present case, the applicant alleges that the period in question is between 20/12/2022 and 30/9/2024, a period of one (1) year and Nine (9) months. The state did not object to the application.



6. I have considered the lower court record. The applicant was arrested and arraigned in Court on 3/1/2023. He was granted bond of Kshs.200,000 on the same day of arraignment in Court. Although sureties were approved on 2/3/2023, it is not clear when he gained his freedom.
7. The record shows that as at 28/4/2023, the applicant was still in custody. However, when the matter came up on 22/5/2023, the applicant is shown not to have been in Court. A warrant of arrest was issued and the same remained in force until 16/5/2024 when he was arrested. He was again placed in custody until the date of his sentencing on 30/9/2024.
8. Accordingly, the time in question is: -
  - a. 3/1/2023 – 28/4/2023 – 115 days
  - b. 16/5/2024 – 30/9/2024 – 137 days
9. That is a total of 252 days.
10. In view of the foregoing, I allow the application. In terms of section 333(2) of the *Criminal Procedure Code*, I direct that in the sentence of 10 years, the Prisons authority shall deduct a total of 252 days from the sentence.

It is so ordered.

**DATED AND DELIVERED AT KISUMU THIS 20<sup>TH</sup> DAY OF JUNE, 2025.**

**A. MABEYA, FCI Arb.**

**JUDGE.**

