



**Kamunge v Republic (Miscellaneous Application E008 of 2024)
[2025] KEHC 10128 (KLR) (20 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 10128 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARSEN
MISCELLANEOUS APPLICATION E008 OF 2024**

**JN NJAGI, J
JUNE 20, 2025**

BETWEEN

WILSON KARIMI KAMUNGE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant has filed an undated application seeking the following orders:
 1. Re-sentencing in form of a more lenient sentence.
 2. An order that his sentence commences from the date of his arrest in accordance to section 333 (2) of the *Criminal Procedure Code*.
2. The application is supported by the affidavit of the Applicant in which he states that he was convicted by the High Court for the offence of murder and sentenced to serve 18 years imprisonment. That he made an appeal to the Court of Appeal but the same was dismissed. He has now come back to this court with the instant application seeking the prayers stated above.
3. The applicant says in his application that he has reconciled with the family of the deceased. That he suffers from hypertension and diabetes mellitus. That he has been in custody for 4 years. That considering that he is aged 59 years, this court can substitute the sentence with a more lenient sentence.
4. The application was opposed by the respondent in the grounds that since the applicant's appeal was dismissed by the Court of Appeal, the instant application has no merit and should be dismissed.
5. I have considered the application. The applicant is seeking for review of sentence of 18 years for murder. This court called for a copy of the judgment of the Court of Appeal. I have gone through the judgment. There is no cause for this court to review the sentence of 18 years imprisonment considering that the same was confirmed by the Court of Appeal. The only thing that the court may consider is whether



the sentence should commence from the date of arrest. Section 333(3) of the *Criminal Procedure Code* requires a court sentencing an accused person who has been in custody during trial to take into account the period spent in custody awaiting trial. However, the applicant did not file a record of the High Court with this application for this court to satisfy itself that the sentencing Judge took into account the period spent in custody when he sentenced the Applicant.

6. In view of the above, the application for review of sentence is dismissed. However, I do hereby make an order for the Deputy Registrar of this Court to retrieve the file in Garsen High Court Criminal Case No.14 of 2018 for the court to check whether the High Court took into account the period spent in custody when it sentenced the applicant to 18 years imprisonment.

Orders accordingly.

Mention on 9/7/2025.

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

J. N. NJAGI

JUDGE

In the presence of:

Ms Mkongo for State

Applicant- present in person at G. K. Prison Malindi

Court Assistant – Ndongye

Language: English/Kiswahili

