



**Kipkorir v Republic (Criminal Revision E135 of 2024)
[2025] KEHC 8221 (KLR) (9 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8221 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E135 OF 2024
RN NYAKUNDI, J
JUNE 9, 2025**

BETWEEN

BRIAN KIPKORIR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before this court is an application dated 24th day of October 2024 seeking the following orders:
 - i. That the applicant is praying for fresh computation of sentence to include the time spent in remand custody.
 - ii. That the said period spent in remand custody to start from the date of arrest.

It is further annexed by an affidavit sworn by Brian Kipkorir which states as follows:

 1. That I am the applicant in this matter hence competent to swear this affidavit
 2. That I was charged with an offence of stealing and sentence to 2 years imprisonment
 3. That, I do not oppose the sentence/charge
 4. That, I pray this hon. Court to grant me leave to appeal out of time.
 5. That, I did not receive the court proceeding within the stipulated time
 6. That, my appeal has high chances of success
 7. That, whatever I have deponed above is true according to my knowledge and belief.

Given under my hand and the seal of this court this 12th day of June 2025

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R. Nyakundi

Judge

Decision

1. the applicant has moved this court in terms of section 333(2) of the CPC. Pursuant to this section the legislature mandated trial courts that in determining the sentence to be imposed on a person convicted of an offence, a court may take into account any time spent in custody by the person as a result of the offence. This means therefore that a trial judge may take spent in pre-sentencing custody into consideration to impose a shorter sentence than would otherwise be appropriate. In some cases, no additional imprisonment is handed down and the time already spent in remand is considered to be sufficient sentence.
2. This statutory provisions allows the courts to take pre-sentencing custody into account at the sentencing stage. However, in applying this section I appreciate that there no guidelines that specify how or to what extent pre-sentencing is to be considered. In the recent times their has been an upsurge of petitions from across the country filed in various registries seeking interpretations of section 333(2) of the CPC. the use of presentencing credit have therefore an impact on individual sentencing revisions. The principle that credit can be granted for presentencing custody under section 333(2) of the CPC serves to mitigate certain injustices arising in pre-trial detention of the accused awaiting determination of his case. The Kenyan courts in compliance with Article 49 (1) (h) of the constitution exercise discretion to grant bail to substantial numbers of accused persons that practically about half of all the accused persons fail to afford the conditions of bail. In the end they are remanded in custody pending trial of their respective cases
3. Focusing on this application am I satisfied that sufficient course has been shown by the applicant to give credit for the period spent in remand custody. The committal warrant shall be amended accordingly to discount the computed period the applicant spent in remand custody
4. It is ordered.

SIGNED, DATE AND DELIVERED AT ELDORET THIS 9TH DAY OF JUNE 2025

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R. NYAKUNDI

