



**Ngunia v Republic (Miscellaneous Criminal Application
E044 of 2024) [2025] KEHC 8612 (KLR) (19 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8612 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
MISCELLANEOUS CRIMINAL APPLICATION E044 OF 2024**

EM MURIITHI, J

JUNE 19, 2025

BETWEEN

CHARLES WATATUA NGUNIA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Section 37 (2) of the [Penal Code](#) does not permit the court to order to that a sentence of imprisonment shall run concurrently with a previous sentence if it is a default sentence for a failure to pay a fine.
2. In this case the applicant was on 6.2.2024 sentenced to a fine of Ksh.50,000/= and in default imprisonment for one (1) year of the offence of cheating contrary to section 315 of the [Penal Code](#) and to a sentence of imprisonment of one (1) year for the of the offence of obtaining by false pretenses under section 313 of the [Penal Code](#), in respectively, Kerugoya Cr. Cases No. E057 and E062 of 2024.
3. While the two sentences could not be directed to be served concurrently in view of Section 37 (2) of the [Penal Code](#), the appellant has been in custody for over sixteen (16) months as at 6.6.2025 from 6.2.2024.
4. Consequently, the applicant has served, with remission of 1/3 of the sentences, the consecutive sentences to imprisonment for two (2) years in full.
5. Accordingly, there shall be an order for his immediate release from custody, unless he is otherwise lawfully held.

Order accordingly.

DATED AND DELIVERED ON THIS 19TH DAY OF JUNE 2025.

EDWARD M. MURIITHI



JUDGE

Appearances:

Mr. Arati for the DPP.

Applicant at Nyeri Maximum

