



REPUBLIC OF KENYA



KENYA LAW
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**Githiora v Republic (Criminal Petition E073 of 2023)
[2025] KEHC 10205 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10205 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL PETITION E073 OF 2023
RN NYAKUNDI, J
JULY 15, 2025**

BETWEEN

GABRIEL GITHIORA PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. Before this court is an application dated 25.8.2023 in which the Applicant is seeking the following orders: -
 - a. That the petitioner is seeking a reduction of his sentence on time spent in remand custody under section 333(2) of the *Criminal Procedure Code* Cap 75 Laws of Kenya
 - b. That the petitioner is seeking for his sentence to commence from the time he was placed in pre-trial custody on 17.3.2021 (excluding 4 months I was out on bond)
 - c. That the petitioner is praying to be present during the hearing and determination.
2. The application is annexed by an affidavit sworn by Gabriel Githiora which states as follows:
 - a. That I was charged with offence of defilement c/section 8(1)(2) of the *SOA* No. 3 2006 and sentenced to serve 15 years by SPM's court Eldoret by Hon. Odenyo in S.O Case No 083/2023 on 23.1.2023
 - b. That I was placed in remand custody after being arraigned in court on 17.3.2021 and was convicted and sentenced on 23.1.2023
 - c. That after being sentenced I did not file for an appeal



- d. That during the sentence time spent in remand custody was into factored in which was one (1) year 6 months (17/03/2021 to 14/09/2022) Please note I went for bond for four (4) months before I was sentenced on 23.1.2023.
- e. What I have deponed herein above is true to the best of my knowledge, information and belief.

Decision

3. The applicant was tried, found guilty for the offence of defilement contrary to section 8 (1) as read together with section 8(3) of the *Sexual Offences Act* No. 3 of 2006. The facts were that on diverse dates between 12th March 2021 in Langas Area, in Kapseret Sub County within Uasin Gishu County. Intentionally and unlawfully caused your genital organ (penis) to penetrate in the genital organ (vagina) of VJ a child aged 10 years.
4. The trial court sentenced the applicant to 15 years' imprisonment. The Applicant argues that this sentence be ordered to commence during the period he was on pre-trial detention in his computation from the record he was in remand custody of 1 year and 6 months. Being a custodial sentence the committal warrant to prison can be reviewed for the officer in charge to give a remission of the foresaid period under section 333 (2) of the *CPC*. Orders accordingly.

DATED AND SIGNED AND PUBLISHED VIA CTS AT ELDORET THIS 15TH DAY OF JULY 2025

.....

R. NYAKUNDI

JUDGE

M/s Sidi for the State

