



**Mulonza v Republic (Miscellaneous Criminal Application
E070 of 2025) [2025] KEHC 10347 (KLR) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10347 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
MISCELLANEOUS CRIMINAL APPLICATION E070 OF 2025**

**JN ONYIEGO, J
JULY 17, 2025**

BETWEEN

DANIEL MAKAU MULONZA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Accused was charged with the offence of Robbery with violence c/s to 296(2) of the penal code. Having pleaded not guilty, the case proceeded to full hearing. Consequently, he was convicted and sentenced to death. Aggrieved by the conviction and sentence, he appealed to the high court vide criminal appeal No. E009 of 2023. Upon hearing the appeal, conviction was upheld but sentence was reduced to 20 years.
2. Undeterred, he moved to this court vide a notice of motion dated 21st May 2025 seeking the court to take into account the period spent in remand custody before sentence. In response, the respondent did not oppose the application.
3. I have considered the application herein which is not opposed. The application is anchored under section 333(2) of the CPC which provides that when imposing sentence, a trial court ought to take into account the period spent in remand custody prior to sentence. See Abamad Abolfathi Mohamed & another v Republic (2018) eKLR where the court emphasized on the need to take into account the period spent in remand custody when imposing sentence. Similar position is stipulated in the judiciary policy guidelines on sentencing 2023.
4. Considering that the trial court pronounced death penalty, there was no need to compute the period spent in remand custody. Therefore, the order being challenged and sought to be revised is that of the high court which reduced the sentence from death penalty to 25 years to start running from the date of sentence. Ideally, the omission by the high court can only be corrected by the court of appeal.



5. Had the lower court imposed a specific period of imprisonment, I would have found room to interfere. The applicant should be satisfied by the revised sentence and complete serving. To that extent the application is dismissed.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 17TH DAY OF JULY 2025

J. N. ONYIEGO

JUDGE

