



**Ouru v Republic (Miscellaneous Criminal Application E247 of 2024) [2025] KEHC 10519 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10519 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E247 OF 2024**

**A MABEYA, J**

**JULY 21, 2025**

**BETWEEN**

**BRIAN ODUOR OURU ALIAS BOY ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. On 10/3/2023, Brian Oduor Ouru Alias Boy was charged with the offence of Arson contrary to section 332(a) of the Penal Code. He faced also two other charges of injuring an animal and malicious damage to property.
2. After trial, he was found guilty, convicted of the offence and sentenced to 12, 3 and 3 years’ imprisonment respectively on the 3 counts. The sentences were to run concurrently. He was in custody between 10/3/2023 and 20/3/2024, a period of 1 years and 10 days.
3. By a Motion on Notice dated 9/12/2024, the applicant has sought that the provisions of section 333(2) of the Criminal Procedure Code be taken into account in computing the period of his incarceration. He also sought that the other sentence he is serving of 6 years for Manslaughter be combined with the others and they run concurrently.
4. Section 333(2) of the Criminal Procedure Code provided that: -

“Subject to the provisions of section 38 of the Penal Code (Cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code. Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.”



5. I have considered the entire record. I have also considered the proceedings of the trial Court, the judgment and sentence. although the Court directed the period between 1/9/2022 and 27/2/2023 be taken into account, the Committal Warrant does not disclose that fact.
6. On the issue of combining the sentences for manslaughter and the other ones for Arson to run concurrently, that is not possible. The Law does not allow. That plea is rejected.
7. In this regard, I find the application to be meritorious. I allow the same. I direct that the tabulation of the sentence of 12, 3 and 3 years' imprisonment shall take into account the period of between 10/3/2023 and 20/3/2024, when the applicant was in custody.

It is so ordered.

**DATED AND DELIVERED AT KISUMU THIS 21<sup>ST</sup> DAY OF JULY, 2025.**

**A. MABEYA, FCI Arb**

**JUDGE**

