



REPUBLIC OF KENYA



**Odhiambo v Republic (Miscellaneous Criminal Application
98 of 2023) [2024] KEHC 3916 (KLR) (18 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3916 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION 98 OF 2023**

DO OGEMBO, J

APRIL 18, 2024

BETWEEN

JACKTON OPONDO ODHIAMBO APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application for Sentence Review from Sentence in Ukwala
Principal Magistrates Court Criminal Case No. E045 of 2022 by
Hon. C. I. Ogutu Senior Resident Magistrate dated 28/9/2022)*

RULING

1. The Applicant, Jackton Opondo Odhiambo, by way of an Application dated 23/6/2023, seeks that his sentence be revised to account for the period he spent in remand custody. The prosecution has not offered any response to this application.
2. I have considered the record of proceedings of the lower court. Same show that the Applicant was charged, tried and convicted of the offence of attempted murder contrary to Section 220 (a) of the [Penal Code](#).
3. He was sentenced to serve 3 years imprisonment. This was on 28/9/2022. The sentence proceedings do not indicate when the sentence would run from. Section 333 (2) of the [Criminal Procedure Code](#) directs that the period that an accused person spends in custody ought to be accounted for in the sentence.
4. In this case, the Applicant had been in remand custody during his trial. The trial magistrate, however, did not account for this period in the sentence passed. The learned magistrate ought to have done this in satisfaction of the provisions of Section 333 (2) of the [Criminal Procedure Code](#).
5. I accordingly therefore find merit in this application of the Applicant for revision of his sentence. I allow the same and revise the sentence. I order that the Applicant serves a term of 3 years imprisonment



as ordered by the trial court. This sentence shall run from 26/4/2022 the date when the applicant was first arraigned before court. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 18TH DAY OF APRIL 2024.

D. O. OGEMBO

JUDGE

18/4/2024

Court

Ruling read in Open Court in presence of Applicant and Mr. Baraza for State.

D. O. OGEMBO

JUDGE

18/4/2024

