



**Makunda v Republic (Miscellaneous Criminal Application
E076 of 2023) [2024] KEHC 5103 (KLR) (9 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5103 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E076 OF 2023**

DO OGEMBO, J

MAY 9, 2024

BETWEEN

IPESA PIUS MAKUNDA APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for review of sentence and Conviction of Siaya CM's Court vide Sexual Offence case No. S.O E020 of 2021 delivered by Hon. M. O. Wambani dated 31.1.2022)

RULING

1. The Applicant, Ipesa Pius Makunda seeks revision of his sentence to account for the period he spent in remand custody pending determination of his case. The prosecution did not make submissions on this application.
2. I have perused the record of proceedings herein of 3/10/2022. In the same the court noted;
“ Shall serve 10 years imprisonment from the date hereof.”
3. The Applicant had been in custody pending determination of his case. Section 333 (2) of the Criminal Procedure Code declares that such period spent in remand custody be accounted for in the sentence of the court. The trial court ought to have factored this period in the sentence of the Applicant.
4. It is for this reason that I find merit in Application of the Applicant dated 31/5/2023. I allow the same and revise the sentence of the applicant. The applicant shall serve 10 years imprisonment as ordered by the trial court. The sentence shall run from 16/3/2021, the date that the Applicant was first arraigned in court. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 9TH DAY OF MAY, 2024.

D.O. OGEMBO



JUDGE

9/5/2024

Court

Ruling read out in Court in presence of the Applicant (Kisumu Maximum) and Ms. Kerubo for State).

D.O. OGEMBO

JUDGE

9/5/2024

Court

File closed.

D.O. OGEMBO

JUDGE

9/5/2024

