



**Nalo v Republic (Miscellaneous Criminal Application
E065 of 2023) [2024] KEHC 5115 (KLR) (2 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5115 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E065 OF 2023**

DO OGEMBO, J

MAY 2, 2024

BETWEEN

GODFREY OCHIENG NALO APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for Sentence Review from Sentence in the PM's at Bondo in Sexual Offence Case No. 82 of 2019 delivered on 15/7/2022 by Hon. S.W. Mathenge – SRM)

RULING

1. The Applicant, Godfrey Ochieng Nalo, *vide* an application dated 31st May 2023 applies for Revision of his sentence.
2. The application is brought under Section 333 (2) of the *Criminal Procedure Code*. He pleads that the period he spent in custody while awaiting determination of his case be accounted for in his sentence.
3. I have considered this application I have also considered the record of proceedings of the lower court. Same show that the applicant was charged with the offence of Rape contrary to Section 3 (1) (a) (c) as read with Section 3 of the *Sexual Offences Act*, No. 3 of 2006.
4. He was subsequently tried, convicted and sentenced to serve 10 years imprisonment.
5. I have further perused the sentence proceedings of the lower court of 15/7/2020. In the said proceedings the court did not indicate when the sentence of the applicant would start running or if indeed the period the applicant spent in custody was accounted for in the sentence. The court ought to have done this pursuant to Section 333 (2) of the *Criminal Procedure Code*.
6. It is for this reason that I find merit in the application of the applicant. I allow the same and revise the sentence of the lower court. I order that the Applicant do serve 10 years imprisonment as ordered



by the trial court. This sentence shall run from 21/11/2019 when the Applicant was first arraigned in court. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 2ND DAY OF MAY, 2024.

D. O. OGEMBO

JUDGE

2/5/2024

Court

Ruling read out in Open Court in presence of the Applicant and Ms. Kerubo for the State.

D. O. OGEMBO

JUDGE

2/5/2024

Court

File closed.

D. O. OGEMBO

JUDGE

2/5/2024

