



**Okongo v Republic (Miscellaneous Criminal Application
106 of 2023) [2024] KEHC 6077 (KLR) (23 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6077 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION 106 OF 2023**

DO OGEMBO, J

MAY 23, 2024

BETWEEN

BENARD OKONGO APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application for review of sentence and Conviction in
Ukwala PM's Court vide Criminal Case No. E619 of 2021 dated
11th January, 2023 and delivered by Hon. L. N. Sarapai - PM)*

RULING

1. The Applicant, Benard Okongo, has filed an application herein dated 23rd June, 2023, seeking revision of his sentence to reflect and account for the period he spent in custody while awaiting the determination of his case. He relies on the case of *Abmend Abulfathi Mohamed* (2018) eKLR.
2. I have considered the record of proceedings of the trial court. In the sentence proceedings of the court on 11/1/2023, it is clear that the trial magistrate noted;

“..... I sentence the offender to serve five years imprisonment less time spent in custody....”
3. In sentencing the Applicant, the trial court clearly took into account the period the Applicant had spent in custody pending determination of his case in accordance with Section 333 (2) of the *Criminal Procedure Code*.
4. The application of the Applicant seeking the same orders is therefore baseless and totally incompetent. I dismiss the same. Orders accordingly.

DATED, SIGNED AND DELIVERED THIS 23RD DAY OF MAY, 2024.

D. O. OGEMBO



JUDGE

23/5/2024

Court

Read out in Open Court in presence of Applicant and Ms. Kerubo for State.

D. O. OGEMBO

JUDGE

23/5/2024

