



**Apolo v Republic (Criminal Miscellaneous Application E014 of 2024)
[2024] KEHC 13389 (KLR) (22 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13389 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION E014 OF 2024
RE ABURILI, J
OCTOBER 22, 2024**

BETWEEN

VINCENT OMONDI ONDIEK ALIAS APOLO APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Vincent Omondi Ondiek alias Apollo is a convict in Bondo PM CR. 1626/2021 for entering/being in a dwelling house with intent to commit a felony contrary to Section 305(1) of the *Penal Code* and while he was in custody, he escaped and was arrested and charged vide Bondo PM Cr. E173/2021 with the offence of escape from lawful custody contrary to Section 123 as read with Section 36 of the *Penal Code*.
2. In the primary offence, he was convicted on his own plea of guilty and sentenced to serve 8 years imprisonment on two counts. The convict also faced the offence of malicious damage to property contrary to Section 339 (1) of the *Penal Code*. sentences were to run consecutively. This was on 12/11/2021 in the offence of escape form lawful custody case, again he pleaded guilty unequivocally and he was sentenced to serve two (2) years imprisonment.
3. He now applies vide his Notice dated 7/2/2024 that the sentences imposed in the two separate case files do run concurrently, and to be computed from date of arrest. I have considered the application and perused both lower court files. I have also considered the submissions as filed. I am unable to find any lawful ground upon which I can combine or consolidate two completely different case files wherein the offences were different and committed at different times for the sake of sentencing. Furthermore, a person who escapes from lawful custody when on bond is not entitled to benefit of Section 333(2) of the *Criminal Procedure Code*. I find the application dated 7/2/2024 devoid of any merit and the same is dismissed.



4. The file is closed. I so order.

RULING DATED, SIGNED AND DELIVERED THIS 22ND DAY OF OCTOBER, 2024.

R. E. ABURILI

JUDGE

