



**Ochieng v Republic (Miscellaneous Criminal Application  
E009 of 2023) [2023] KEHC 637 (KLR) (9 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 637 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E009 OF 2023  
RE ABURILI, J  
FEBRUARY 9, 2023**

**BETWEEN**

**MICHAEL JUMA OCHIENG ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for sentence review in Judgment, conviction and sentence of Hon. J.O. Ong'ondo, SPM in Siaya SPM Criminal Case No. 295/2019 delivered on 24/12/2019 and in Siaya HC Misc. Criminal Application No. 48 of 2020 delivered by Hon. R.E. Aburili, J)*

**RULING**

1. I have perused the application by the convict/applicant herein Michael Juma Ochieng who was convicted and sentenced to serve ten (10) years imprisonment for the offence of grievous harm contrary to section 234 of the [Penal Code](#) vide Siaya SPM Cr 295/2019. The convict poured sulfuric acid in the face of the complainant who eventually burnt his face and eyes, losing sight. The complainant was the convict's paternal uncle and the dispute was over land.
2. The convict sought for sentence review vide HCR Misc Application No 48 of 2020 which application was found to be devoid of merit and dismissed. He is now before this court seeking that this court considers the period spent in custody during the during trial. I have considered the application and perused Siaya SPM Cr 295/2019. The charge sheet shows that he was arrested on April 1, 2019 and convicted and sentenced on February 5, 2020.
3. He was granted bond pending trial after taking the plea on April 2, 2019 but he never raised bond.
4. The sentence as imposed on February 5, 2020 never mentioned the period that he spent in custody pending trial.



5. For the above reasons, and pursuant to the provisions of section 333(2) of the *Criminal Procedure Code*, I hereby allow the application dated February 2, 2023 and order that the ten (10) years imprisonment imposed on the convict/applicant Michael Juma Ochieng on February 5, 2020 shall be calculated, from the date of his arrest, as per the charge sheet in the lower court which is on April 1, 2019.
6. I so order.
7. File closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 9<sup>TH</sup> DAY OF FEBRUARY, 2023**

**R.E. ABURILI**

**JUDGE**

