



REPUBLIC OF KENYA



**Msituni v Office of the Director of Public Prosecution (Miscellaneous Criminal Application E202 of 2022) [2023] KEHC 1992 (KLR) (3 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1992 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
MISCELLANEOUS CRIMINAL APPLICATION E202 OF 2022**

**A. ONG'INJO, J**

**MARCH 3, 2023**

**BETWEEN**

**JACOB JUMA MSITUNI ..... APPLICANT**

**AND**

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION ..... RESPONDENT**

**RULING**

1. The Applicant Jacob Juma Msituni was convicted for the offence of murder in Mombasa HC CR No 10 of 2008 and sentenced to serve 40 years years.
2. The Applicant now seek that the court be pleased to award a lenient definite sentence and to invoke the provisions of Section 333(2) of the [Criminal Procedure Code](#) and Order that the 4 years he spent in remand custody be factored in his sentence.
3. The Applicant was arraigned in court in 2008 and was convicted on March 12, 2012 and sentenced on March 13, 2012.
4. The applicant is entitled to the period spent in remand custody subject to confirmation from the trial courts file that he was not released on bond.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,  
THIS 3<sup>RD</sup> DAY OF MARCH 2023**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of:-**

Ogwel – Court Assistant

Applicant – Present in person



Mr. Ngiri for Respondent

