



**Ochudho v Republic (Miscellaneous Criminal Application
E059 of 2022) [2023] KEHC 2877 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2877 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E059 OF 2022**

**RE ABURILI, J
MARCH 24, 2023**

BETWEEN

JOHN NDEDA OCHUODHO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Convict/Applicant filed this application on May 10, 2022 seeking that the period spent in custody of six (6) years prior to being convicted for the offence of murder on May 8, 2012 be taken into account as the court ordered that the twenty five (25) years imprisonment for the offence of murder do taken into account the six (6) years spent in custody.
2. The court has on several occasions called for the murder file High Court Criminal No. 03 of 2007 at Kisumu but the same is not forthcoming despite summons issued to the archivist.
3. The applicant has indicated in his application that he was arrested on December 17, 2006. There is no contrary evidence and the prisons authorities can also verify since suspects of murder or robbery with violence were never granted bail pending trial prior to 2010.
4. In the premises, I shall give the Applicant/Convict the benefit of doubt and allow the application.
5. I order that the twenty five (25) years imprisonment imposed on the convict on May 8, 2012 shall take into account/calculated from the time the Convict/Applicant was in custody from date of arrest on December 17, 2006.
6. Signal/order to issue.
7. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 24TH DAY OF MARCH, 2023



R. E. ABURILI
JUDGE

