



**Okwanyo v Republic (Miscellaneous Criminal Application
E009 of 2022) [2023] KEHC 2880 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2880 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E009 OF 2022**

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

BETWEEN

JAPHETH OMONDI OKWANYO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The application was filed on 20th January 2022 by Japheth Omondi Okwanyo and to date, despite orders and directions for availability of the lower court file in Nyando Senior Principal Magistrate Criminal No. 8939 of 2021, there has been no action.
2. The Convict/Applicant seeks orders that the period he spent in custody pending trial be considered in the six (6) years imprisonment imposed on him for the offence of stealing stock as per the committal warrant dated 13th September 2021.
3. He has annexed the warrant of commitment for a sentence of imprisonment which shows that the trial court did not mention any period spent in custody.
4. He however does not state when he was arrested.
5. I find no material to consider the period spent in custody. The application is dismissed.
6. The Convict can file another application with full disclosure of date of arrest and court proceedings for the court to consider whether he was on bond pending trial or not.
7. The file is closed.
8. Signal to issue.
9. I so order.



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

R. E. ABURILI

JUDGE

