



**Kalo v Republic (Miscellaneous Criminal Application  
E062 of 2022) [2023] KEHC 3427 (KLR) (13 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3427 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E062 OF 2022**

**RE ABURILI, J  
APRIL 13, 2023**

**BETWEEN**

**ENOS KALO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant herein Enos Kalo is a Convict in Maseno Senior Principal Magistrate's Court Criminal Case No. 825 of 2003. He was charged, tried and convicted of the two (2) counts of the offences of Robbery with violence and Rape and sentenced to serve ten (10) years imprisonment for rape and death penalty for Robbery with violence on June 7, 2004 as per the warrant of commitment annexed to the application filed on May 12, 2022.
2. The Convict appealed vide Kisumu HCRA No 96 of 2004 and lost. His appeal to the Court of Appeal vide Court of Appeal Criminal Appeal No. 99 of 2007 was also dismissed.
3. However, his death sentence was commuted to life imprisonment and vide Constitutional Petition No. 71 of 2018 at Kisumu High Court, he was resented to serve thirty (30) years imprisonment.
4. He now prays that the seven (7) months and four (4) days he spent in custody pending sentences from November 3, 2003 to June 7, 2004 be considered.
5. I have considered the application. I find it merited. I invoke section 333(2) of the *Criminal Procedure Code* and order that the thirty (30) years imprisonment that the Applicant was resented shall be calculated taking into account the period he spent in custody from November 3, 2003 to June 7, 2004.
6. Order to be extracted.
7. This file is now closed.



**Dated, Signed and Delivered at Kisumu this 13<sup>th</sup> Day of April, 2023**

**R. E. ABURILI**

**JUDGE**

