



**Matu v Republic (Miscellaneous Criminal Application
25 of 2020) [2023] KEHC 3567 (KLR) (20 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3567 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
MISCELLANEOUS CRIMINAL APPLICATION 25 OF 2020**

**GL NZIOKA, J
APRIL 20, 2023**

BETWEEN

ADAN ABDI MATU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. By an undated application filed in court on May 21, 2020, the applicant is seeking for sentence review in relation to the sentence meted out vide Chief Magistrate Criminal Case No 1082 of 2018. However, I note from the trial court file that the correct case number is Chief Magistrate Criminal Case No 1182 of 2018.
2. Be that as it may, the application is supported by the applicant's affidavit sworn on May 21, 2020. He avers that, he was charged with the offence of being in possession of a firearm contrary to section 89 (1) of the *Penal Code* in count 1 and being in possession of government trophy contrary to section 95 of the *Wildlife Conservation Act*, 2013 in count 2. He was subsequently convicted and sentenced to serve seven (7) years imprisonment on count 1 and to pay a fine of Kshs 2,000,000 in default to serve two (2) years imprisonment.
3. That, the court did not state how the custodial sentence would be served, whether concurrently or consecutively. Hence, his prayer that this court orders that, the custodial sentences runs concurrently. Further, the court considers the period of one (1) year and seven (7) months he was in custody while on trial.
4. The Respondent did not have any objection to the court considering the period the appellant was in custody.



5. In that regard, I have gone through the trial courts record and note that, on the February 6, 2020, when the trial court pronounced the sentence, it clearly indicated that, the sentence was to run concurrently. Therefore, the issue of the manner in which the sentence will be served does not arise.
6. As regards the period the applicant was in custody, I note that, he was arrested on August 8, 2018, and arraigned in court on August 9, 2018. He was released on bond of Kshs. 500,000 with two sureties of like amount but was remanded as per the warrant of commitment on record, from August 9, 2018 to February 6, 2020. That is a period of one (1) year six (6) months.
7. Apparently, the trial court did not indicate anywhere in its record while pronouncing the sentence, that this period in custody was considered. In that regard, I order that the same be factored in the computation of the period the applicant will serve.
8. In a nutshell, the applicant will serve seven (7) years with effect from August 9, 2018. However, no remission will apply to that period of one year and six (6) months
9. It is so ordered.

DATED, DELIVERED AND SIGNED ON THIS 20TH DAY OF APRIL, 2023

GRACE L NZIOKA

JUDGE

In the presence of:

Appellant present in person, in court virtually

Mr Atika for the Respondent

Ms Ogotu: Court Assistant

