



**Otieno v Republic (Miscellaneous Criminal Application
E073 of 2022) [2023] KEHC 3280 (KLR) (12 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3280 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E073 OF 2022**

**RE ABURILI, J
APRIL 12, 2023**

BETWEEN

JOHN KENNEDY OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This application was filed on July 8, 2022 by the Applicant/Convict John Kennedy Otieno who was sentenced to serve ten (10) years imprisonment for the offence of defilement contrary to Section 9(1) as read with section 9(2) of the *Sexual Offences Act* vide Nyando Senior Principal Magistrate's Court Sexual Offences Case No. 963 of 2016.
2. He claims that the period he spent in custody two (2) years was not taken into account. However, as the convict was entitled to bond and he has not bothered to annex copies of proceedings in the lower court to confirm to this court that he was not released on bond pending trial, that notwithstanding, the prisons authorities can confirm whether the convict was in prison or not during his trial as the sentence is short term.
3. The challenge is that the applicant has not disclosed the date of his arrest.
4. For the above reasons, I find this application not supported. It is hereby dismissed.
5. The applicant can file a fresh application for consideration but with full court proceedings. Order to be extracted and served.
6. This file is hereby closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 12TH DAY OF APRIL, 2023

R. E. ABURILI



JUDGE

