



REPUBLIC OF KENYA



Bett v Republic (Criminal Appeal E010 of 2021) [2023] KEHC 4025 (KLR) (4 May 2023) (Ruling)

Neutral citation: [2023] KEHC 4025 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL APPEAL E010 OF 2021**

JK SERGON, J

MAY 4, 2023

BETWEEN

ERICK KIPKEMOI BETT' APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was sentenced on four counts as follows:

- i. CT I: Causing death by dangerous Riding contrary to section 46 of the [Traffic Act](#) in which he was condemned to pay a fine of Kshs 100,000/= in default serve 5 years imprisonment.
- ii. CT II: Riding a Moto Cycle on a Public Road without Insurance Contrary to Section 103 B (3) as read with 103 (B) (7) of [Traffic Act](#) in which he was condemned to pay a fine of Kshs 5,000/= in default serve 15 days imprisonment.
- iii. CT III: Riding a Motor Vehicle on a Public Road without a Driving License Contrary to section 103B (5) as read with section 103B (7) of the [Traffic Act](#) in which he was condemned to pay a fine of Kshs 1,000/= in default serve 15 days imprisonment.
- iv. CT IV: Failing to Report an Accident Contrary to Section 73(1) as read together with Section 75 of [Traffic Act](#) in which he was condemned to pay a fine of Kshs 1,000/= in default serve 15 days imprisonment.

The sentence was to run consecutively.

2. The Applicant has made an application under section 333(2) of the [Criminal Procedure Code](#) for inclusion of the period he was in custody prior to his sentence of 5 years imprisonment.



3. The Prosecution did not oppose the Application.
4. The Original record of appeal shows that the applicant was granted a bond of Kshs 200,000/= with one surety on April 10, 2019 but there is no indication from the record that he was ever released on bond.
5. The applicant was first arraigned in Court on April 10, 2019 and he was sentenced on June 26, 2020 after remaining in custody for a period of almost 1 year and 3 months. It is apparent the period the Applicant spent in custody was not factored in before sentence by the Trial Court. I find the application to be with merits.
6. I direct that the 1 year and 3 months be deducted from the jail term of 5 years.
7. The sentence should start to run as from April 10, 2019.
8. Orders to issue accordingly.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 4TH DAY OF MAY, 2023.

J.K. SERGON

JUDGE

In the presence of:

C/Assistant - Rutoh

S/Counsel – Mr. Musyoki

Appellant – Present in Person

