



**Magak v Republic (Miscellaneous Criminal Application  
E087 of 2022) [2023] KEHC 3828 (KLR) (2 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 3828 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E087 OF 2022**

**RE ABURILI, J**

**MAY 2, 2023**

**BETWEEN**

**JOSEPH MWATA MAGAK ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This file was opened on August 19, 2022 following an application by Joseph Mwata Magak seeking to be released on bond terms that is reasonable in Kisumu Chief Magistrate Criminal Case No. E115 of 2022.
2. He claims in his sworn affidavit that he was denied bond which is his constitutional right. That he was accused of grievous harm.
3. The lower court file was requested on September 8, 2022 but the same has not been availed. It is now over eight (8) months since this file was opened, with no action.
4. As it is not clear whether the lower court file is still pending hearing and determination, and as the applicant has the opportunity to apply before the trial court for review of orders denying him bond, I find no merit in this application which is hereby declined and dismissed.
5. This file is closed.
6. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 2<sup>ND</sup> DAY OF MAY, 2023**

**R. E. ABURILI**

**JUDGE**

