



**Juma v Republic (Miscellaneous Criminal Application
E030 of 2023) [2023] KEHC 19008 (KLR) (19 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19008 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E030 OF 2023**

RE ABURILI, J

JUNE 19, 2023

BETWEEN

KENNEDY JUMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This file is similar to HC Misc Criminal Application No E051 of 2022 filed on April 26, 2022. In the present matter, the Applicant Kennedy Juma Ogolla seeks from this court orders that this court do consider the period spent in custody during his trial in Kisumu HCCR No 32 of 2007. That he was arrested on August 1, 2007 and convicted on March 14, 2012 which was close to 3 years and that he was sentenced to serve 25 years' imprisonment.
2. The offence for he was convicted and sentenced was Murder contrary to Section 203 as read with Section 204 of the *Penal Code*.
3. Although the convict has not annexed court proceedings and judgment as I have held before in other proceedings, to demonstrate that he was in prison custody pending hearing and sentence, I take judicial notice of the fact that prior to the *2010 Constitution*, Bail was not a right of every accused person.
4. In capital offences like murder, robbery with violence and treason, no bail was granted to the accused person.
5. I shall therefore give the convict/applicant herein the benefit of doubt and allow his application and order that the 25 years' imprisonment imposed on him shall be calculated from the date of his arrest on August 1, 2007.
6. This file is hereby closed.
7. I so order.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF JUNE, 2023

R. E. ABURILI

JUDGE

