



**Anyumba v Republic (Miscellaneous Criminal Application  
E043 of 2023) [2023] KEHC 23940 (KLR) (6 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23940 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E043 OF 2023**

**RE ABURILI, J  
OCTOBER 6, 2023**

**BETWEEN**

**FREDRICK AKETCH ANYUMBA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Senior Principal  
Magistrate's Court Criminal Case No 807 of 2019 at Winam)*

**RULING**

1. The Applicant is Fredrick Aketch Anyumba. He was convicted and sentenced to serve ten (10) years imprisonment for the offence of Robbery with violence contrary to section 296(2) of the [Penal Code](#) with vide Winam SPM Criminal Case No. 807 of 2019.
2. He never appealed. He did file HCCR Misc. Application No. E035 of 2022 seeking that this court takes into account the period he spent in custody in calculating his sentence.
3. However, he never annexed any supporting documents or proceedings for this court's consideration and that application was dismissed with leave to reapply.
4. He has now filed a fresh application on 25<sup>th</sup> August 2023 annexing copies of proceedings and judgment in Winam SPM Criminal Case No. 807 of 2019 dated 10<sup>th</sup> June 2020 duly certified on 9<sup>th</sup> December 2022.
5. From the proceedings of the trial court, the convict was granted bond of Kshs.500,000 plus one surety of similar amount when he took plea on 26<sup>th</sup> September 2019 but he never raised the bond terms.
6. From his own defence on oath, he was arrested on 25<sup>th</sup> September 2019. Judgment was rendered on 10<sup>th</sup> June 2020 and he was sentenced on the same day.



7. As the trial magistrate never took into account the period spent into custody in sentencing the Applicant herein, I invoke Section 333(2) of the *Criminal Procedure Code* and order that the ten (10) year prison term shall be calculated from the date of arrest of the Convict/Applicant herein Fredrick Aketch Anyumba, which was on 25<sup>th</sup> September 2019.
8. I so order.
9. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 6<sup>TH</sup> DAY OF OCTOBER, 2023**

**R. E. ABURILI**

**JUDGE**

