



**Odjor v Republic (Miscellaneous Criminal Application E025 of 2024)  
[2024] KEHC 13283 (KLR) (22 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13283 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E025 OF 2024  
RE ABURILI, J  
OCTOBER 22, 2024**

**BETWEEN**

**CLINTON OCHIENG ODJOR ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant Clinton Ochieng Oduor is a convict vide Ukwala PM Cr. E084/2022 for the offence of robbery with violence contrary to Section 295 as read with Section 296 (2) of the *Penal Code*. He also faced other alternatives and two other convicts including stealing contrary to Section 268 as read with Section 275 of the *Penal Code* and being in possession of Government Stores namely several administration and Kenya Police Uniforms and accessories.
2. He was sentenced to a total of 11 years imprisonment to run consecutively on 26/8/2022 by Hon. C. I. Agutu, SRM. He now claims that the sentences were unfair because they were to run from date of sentence and consecutively instead of concurrently.
3. I have considered the application dated 3/1/2024 and observe that from the charge sheet, the convict was arrested on 24/6/2022 and the hearing was expedited and concluded on 26/8/2022 within one month and 28 days. He was not released on bond following a negative pre-bail assessment report dated 15/7/2022 showing that he was a dangerous criminal and a serious threat to the community. Further, that he was a flight risk.
4. On sentence imposed, which was far much below the mandatory death sentence, and therefore whether it should run concurrently or consecutively as ordered, I have examined each of the three counts of which he was convicted and observe that in the 1<sup>st</sup> count of robbery with violence, the offence took place on diverse dates between 28/4/2022 and 1<sup>st</sup> May 2022. In count 2 of the Stealing, the offence



took place on 9/3/2022, while in count 3 of being in possession of Government stores, the offence was committed on 24/6/2022.

5. Whereas in Count 1 of Robbery with violence where the applicant was charged with robbery with violence the complainant is identified and known to be Joyce Anyango Ochieng, county 2 was committed on a different date and place and the complainant is different. Equally, count 3 was committed on a different date and place and the complainant is also different. That being the case, I find no irregularity in the sentences imposed running consecutively as this is in accordance with Sections 12 & 14 of the Criminal Procedure Code and section 37 of the Penal Code; noting that the offences were not committed in the course of the same transactions.
6. The only common factor in the offences charged is the date of arrest.
7. On whether the consecutive sentences should be calculated from date of sentence or arrest, I observe that owing to his dangerous character and antecedents of the applicant/convict herein, the convict was not released on bond pending trial.
8. I invoke Section 333(2) of the Criminal Procedure Code and order that the consecutive sentences shall run from 24/6/2022 the date of arrest, taking into account the one month and 28 days spent in custody pending trial.
9. On the whole, I only allow the application dated 3/1/2024 partially to the extent that the 11 years consecutive sentences remain undisturbed while the said sentences shall be calculated from 24/6/2022 date of arrest of the convict/applicant herein.
10. This file is closed.

**RULING DATED, SIGNED AND DELIVERED ON 22<sup>ND</sup> DAY OF OCTOBER, 2024**

**R. E. ABURILI**

**JUDGE**

