



**Otieno v Republic (Criminal Miscellaneous Application E019 of 2024)
[2024] KEHC 13437 (KLR) (22 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13437 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION E019 OF 2024
RE ABURILI, J
OCTOBER 22, 2024**

BETWEEN

BENARD OMONDI OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Bernard Omondi Otieno is a convict vide Siaya SPM SO 59/2020 for the offence of rape contrary to Section 3(1) (a) (c) (3) of the *Sexual Offences Act*. He was sentenced to serve 10 years imprisonment on 19/4/2022. He has not appealed. He applies that the period spent in custody be considered.
2. I have perused the lower court file. The charge sheet shows that the convict was arrested on 30/8/2020 and sentenced on 19/4/2022. There is no evidence that he was released on bond.
3. In the circumstances, I am satisfied that Section 333 (2) of the *Criminal Procedure Code* ought to have been applied, taking into account the period that the convict spent in custody during trial.
4. I allow the application dated 5/2/2024 and order that the 10 years prison imposed shall be calculated from date of arrest on 30/8/2020 as per the charge sheet.
5. This file is closed. Signal to issue.

RULING DATED, SIGNED AND DELIVERED THIS 22ND DAY OF OCTOBER, 2024.

R. E. ABURILI

JUDGE

