



**Atindah v Republic (Miscellaneous Criminal Application  
E116 of 2023) [2024] KEHC 14342 (KLR) (8 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14342 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E116 OF 2023  
RE ABURILI, J  
NOVEMBER 8, 2024**

**BETWEEN**

**DAVID OTIENO ATINDAH ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant David Otieno Atindah is a convict of defilement contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act*, vide Bondo SPM SO Case No. 45/2020. He was sentenced to serve 15 years imprisonment on 7/9/2020.
2. He appealed vide Siaya *HCRA* 12/2020 which appeal was set down for hearing on merit but on 19/10/2021, the applicant herein applied to have his appeal withdrawn and the court marked the appeal as wholly withdrawn and closed the file.
3. The Applicant is back vide his application dated /filed on 3/8/2023 seeking to have the period spent in custody to be from 29/6/2020 to 7/9/2020 to be considered in his sentence.
4. I have perused the application and the trial court record. The applicant was arrested on 29/6/2020 according to the charge sheet dated 30/6/2020. He took plea on the same day and was granted bond of Kshs 100,000/= plus one surety of similar amount but here is no evidence that he was processed for release on bond. I allow the application dated and filed on 3/8/2024 and order that the sentence imposed on the convict Daniel Otieno Atindah shall be calculated from the date of arrest on 29/6/2020.
5. Signal to issue. This file is closed.

I so order.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 8<sup>TH</sup> DAY OF NOVEMBER, 2024.**



**R. E. ABURILI**  
**JUDGE**

