

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 252 OF 2019

ANTONY NJONGE MUIRURI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. I have considered the respective submissions. I entirely concur with the learned State Counsel. The provision to **Section 333(2) of the Criminal Procedure Code** requires the court, in sentencing, to take into account the period an accused was in custody prior to the conviction.

2. This, the learned trial magistrate failed to apply this cardinal principle of sentencing.

3. There is no doubt that the Applicant having taken plea on 13/1/2015 and was convicted on 14/8/2019 was in remand for three years seven months. He has therefore remained in custody for a period in excess of the sentence. I accordingly order that he be forthwith set free unless otherwise lawfully held.

Dated and Delivered at Nairobi This 9th day of December, 2019.

G.W.NGENYE-MACHARIA

JUDGE.

In the presence of:

1. *Applicant present in person*

2. *M/s Nyauncho for the Respondent.*