



**Abele v Republic (Miscellaneous Criminal Application E043 of 2025)  
[2025] KEHC 13888 (KLR) (16 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13888 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E043 OF 2025**

**JM OMIDO, J  
SEPTEMBER 16, 2025**

**BETWEEN**

**BENJAMIN OUMA ABELE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. From the record of lower court, which is before me, the Applicant remained in remand custody for 126 days awaiting the conclusion of his trial.
2. It is instructive from the same record that the learned trial magistrate did not take into consideration the 126 days as is mandatorily required under Section 333(2) of the Criminal Procedure Code, when sentencing the Applicant, which provision requires that the period an accused person spends in remand be taken into consideration.
3. That then gives the result that the application is merited.
4. I therefore allow the application with the result that 126 days shall be deducted from the 4-year period of imprisonment that he was ordered to serve.
5. This file is closed.

**DELIVERED (VIRTUALLY), DATED AND SIGNED THIS 16<sup>TH</sup> DAY OF SEPTEMBER, 2025.**

**JOE M. OMIDO**

**JUDGE**

Applicant: Present, Virtually.

For Respondent: Ms. Muema.



Court Assistant: Mr. Ngoge.

