

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT GARSEN
CRIMINAL REV. NO. E008 OF 2024

WILSON KARIMI KAMUNGE.....
APPLICANT

VERSUS

THE ODPP.....
.....RESPONDENT

RULING

1. The Applicant herein filed an application seeking an order that his sentence for murder commences from the date of his arrest in accordance with Section 333(2) of the Criminal Procedure Code.
2. The application is based on the grounds that the trial court did not consider the time spent in custody at the time of sentencing.
3. I have perused the judgment in Garsen High Court Criminal Case No.14 of 2018 wherein the sentence was delivered by Justice Nyakundi on 8/6/2021. The learned Judge did not state whether he had considered the time spent in custody awaiting trial as required by Section 333(2) of the Criminal Procedure Code. The section is couched in mandatory terms and states that:

.....where the person sentenced under section (1) has, prior to sentence been held in custody, the sentence shall take account of the period spent in custody.

4. In view of the fact that the trial court did not take into account the period spent in custody, this court has power to revisit the case and make appropriate orders so as to meet the ends of justice. I accordingly order that the sentence imposed on the applicant for the offence of murder in Garsen High Court Criminal Case No. 14 of 2018 commences from the date of his arrest, that is, on the 2nd November 2018.

Delivered, dated and issued at GARSEN this 8th day of October 2025.

J. N. NJAGI

JUDGE

In the presence of:

Ms Mkongo for Respondent

Petitioner: Present at GK prison Malindi

Court Assistant: Rahma