



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Wanyama v Republic (Criminal Revision E102 of 2025)
[2025] KEHC 13633 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13633 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E102 OF 2025
DR KAVEDZA, J
OCTOBER 2, 2025**

BETWEEN

GLADYS MATUKA WANYAMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted for the offence of stealing by agent contrary to section 283(b) of the Penal Code. He was sentenced to serve three (3) years imprisonment.
2. He filed the present application and an affidavit in support of his motion seeking sentence review. The arguments raised are that the trial court failed to consider the time he spent in remand custody during the computation of his sentence.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333 (2) of the Criminal Procedure Code obligates the court to take into account the time already spent in custody. The duty to take in account the period an accused person had remained in custody in sentencing under the proviso to section 333(2) of the Criminal Procedure Code which is couched in mandatory terms was acknowledged by the Court of Appeal in *Ahamad Abolfathi Mohammed & Another vs. Republic* [2018] eKLR and *Bethwel Wilson Kibor vs. Republic* [2009] eKLR and more recently in the High Court case of *Vincent Sila Jona & 87 others vs Kenya Prison Service & 2 others* [2021] eKLR.
5. It is therefore clear that it is mandatory that the period which an accused has been held in custody prior to being sentenced be considered in meting out the sentence where it is not hindered by other provisions of the law.



6. From the record, the applicant was arrested on 12th November 2023 admitted to a cash bail of Kshs. 20,000 and released on 20th March 2024. The trial court also directed that the prison consider the time spent in remand custody during computation of her sentence.
7. In the premises, the application is found to be lacking in merit and is dismissed.
Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 2ND DAY OF OCTOBER 2025

.....

D. KAVEDZA

JUDGE

