



**Kairu v Republic (Criminal Miscellaneous Application E284 of 2024)
[2025] KEHC 15018 (KLR) (24 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15018 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E284 OF 2024**

**A MABEYA, J
OCTOBER 24, 2025**

BETWEEN

DANIEL MWANGI KAIRU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. On 18/1/2023, DANIEL MWANGI KAIRU was charged on Count 1 with the offence of breaking into a building and committing a felony contrary to section 30 (a) (b) of the Penal Code. It was alleged that on the night of 15/1/2023 at Baraka Shopping Centre in Nyando sub county within Kisumu County, he entered into a shop of one Julius Okoth Ogelo and stole an assortment of goods all valued at Kshs. 135,570/-.
2. The applicant was also charged with the offence of handling stolen goods contrary to section 322 (1) (2) of the Penal Code.
3. After trial, he was acquitted of the first count and convicted of the second charge and sentenced to imprisonment for 5 years. The Court did direct that the sentence would start running from the day he was placed in custody.
4. By an undated Motion on Notice, the applicant has sought that the provisions of section 333(2) of the CPC be taken into account in computing the period of his incarceration. The State is not opposed to Motion.
5. Section 333(2) of the Criminal Procedure Code provided that: -

“Subject to the provisions of section 38 of the Penal Code (Cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code. Provided that where the



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

6. I have considered the entire record. I have also considered the proceedings of the trial Court, the judgment and sentence. The trial court in its sentence directed that the applicant’s sentence would start running from the date he was placed in custody. In essence the court was complying with the provisions of section 333(2) of the CPC.
7. In this regard, I find the application to be without merit and hereby proceed to dismiss it. However, the sentence was ordered to commence on 17/01/2023 which the Prison authorities should comply with.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 24TH DAY OF OCTOBER, 2025.

A. MABEYA, FCI Arb

JUDGE.

