



**Ouko v Republic (Criminal Miscellaneous Application E086 of 2024)
[2025] KEHC 14911 (KLR) (24 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14911 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E086 OF 2024**

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

BETWEEN

NICHOLAS COLLINS OUKO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Nicholas Collins Ouko was on 23/10/2017 charged with the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No. 3 of 2006.
2. The particulars were that on diverse dates from mid-year 2016 to August, 2017 in Obede Sub-County within Kisumu County, he intentionally and unlawfully caused his penis to penetrate the vagina of L. A a child aged 15 years.
3. The applicant denied the offence, was tried, convicted and sentenced to 20 years imprisonment. His appeal to the High Court (Kamau J) was rejected on 16/5/2022 in KSM HCCRA No. 45 of 2019 Nicholas Collins Ouko vs Republic.
4. Having perused both the records from the trial court and the Appeal file, it is clear that the applicant was not afforded the benefit of section 333(2) of the Criminal Procedure Code. That provision provides: -

“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.”

5. By a Motion on Notice dated 27/5/2025, the applicant has sought that the said provision be brought to account on his sentence. Having found that the trial court did not observe that direction, I accede to the Motion in the interests of fair trial under Article 50 of the {>/akn/ke/act/2010/constitution



Constitution}} of Kenya. The applicant remained in custody throughout his trial from 19/10/2017 until his sentence on 16/8/2018.

6. Accordingly, the sentence of the applicant shall run from 19/10/2017 when he was first arrested and placed in custody.

It is so ordered.

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

A. MABEYA, FCI Arb

JUDGE

