



**Lekai v Republic (Miscellaneous Criminal Application E190 of 2024)  
[2025] KEHC 17481 (KLR) (28 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17481 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
MISCELLANEOUS CRIMINAL APPLICATION E190 OF 2024  
HI ONG'UDI, J  
NOVEMBER 28, 2025**

**BETWEEN**

**DAVID LETIKA LEKAI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant (David Letika Lekai) vide his undated notice of motion seeks to have this court issue orders under section 333(2) Criminal Procedure Code which states as follows:  
  
(2) ) 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.
2. The respondent through Mr. Kihara State Counsel has opposed the application. The reason being that the case has been heard upto Court of Appeal which reduced the applicant's death sentence to 35 years.
3. The applicant was charged and convicted of the offence of Robbery with violence contrary to section 296(2) of the Penal Code. He was then sentenced 35 years imprisonment in Naivasha Chief Magistrate's Case No. 1099 of 2011.
4. Upon appeal to the High court Naivasha HCRA No. 2 of 2014, the sentence was enhanced to the death sentence. He went on appeal to the Court of Appeal vide Nakuru Court of Appeal No. 51 of 2016 where the sentence was reduced to 35 years imprisonment.
5. He is now before this court seeking to have section 333(2) of the Criminal Procedure Code applied to the sentence meted out by the Court of Appeal. He urges that the respondent will not suffer any



prejudice if that is done. All this information is found in the applicant's application and the notice of motion.

6. This matter having been handled and decided on by the Court of Appeal cannot be dealt with by this court without the orders of that court. What the applicant is raising here ought to have been raised before the said superior court. Nothing stops him from moving that court for review of its orders.
7. For the above reasons I find no merit in this application which I hereby dismiss.
8. Orders accordingly.

**DELIVERED, VIRTUALLY, DATED AND SIGNED THIS 28<sup>TH</sup> DAY OF NOVEMBER, 2025 IN  
OPEN COURT AT NAKURU**

**H. I. ONG'UDI**

**JUDGE**

