

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KAPENGURIA.
CRIMINAL DIVISION
CRIMINAL REVISION NO. E003 OF 2026

FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL CASE NO. 12 OF 2019

ALEXANDER PKEMOI KAMERIRUK APPLICANT

AND

REPUBLIC RESPONDENT

R U L I N G

Alexander Pkemoi Kameriruk, the applicant, has brought this application pursuant to section 333(2) of the Criminal Procedure Code and Article 50(6) (a) of the Constitution.

He seeks orders that the court do consider the period he was in remand before conviction and sentence to be included in the sentence.

The respondent opposed the application for reasons that the Judge who sentenced the applicant took into account the period spent in remand.

Section 333(2) provides 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.

In the case of **Ahmed Abolfathi Mohammed & Another -Vs- Republic (2018) KECA**, the Court of Appeal said as follows of Section 333(2) of the Criminal Procedure Code **“The appellants have been in custody from the date of their arrest on 19th June, 2012. By dint of section 333(2) of the CPC., the court was obliged to take into account the period that they spent in custody before they were sentenced Taking into account the period spent in custody must mean considering that period so that the imposed sentence is reduced proportionately by the period already spent in custody; It is not enough for the court to merely state that it has taken into account the period already spent in custody and still order the sentences to run from the date of conviction because that amounts to ignoring all together the period already spent in custody and still it must be remembered that the proviso to section 333(2) of the Criminal Procedure Code was introduced in 2007 to give the court the power to include the period already spent in custody in the sentence that it metes out to the Accused person.....”**

The appellant was convicted for the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. Upon conviction one is liable up to

a sentence of death. In this case, the Applicant was sentenced to serve fifteen (15) years imprisonment. This is after the Judge in his Ruling, stated that he had taken into account the fact that the Applicant had been in remand since 2019.

This court believes that the court took into account the period that the applicant spent in remand before sentencing him to fifteen (15) years imprisonment. This court cannot revisit that issue. The application is declined.

Ruling delivered, dated and signed in open court at Kapenguria this 16th day of March, 2026.

R. WENDOH
JUDGE

In the Presence of:-

Applicant - in person

Ms. Koech - Prosecution Counsel

Juma/ Hellen Court Assistants