

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISUMU
CRIMINAL DIVISION
MISC. CRIMINAL APPLN NO. E021 OF 2026

BRAYAND MADIORI APPLICANT

- VERSUS -

REPUBLIC RESPONDENT

R U L I N G

1. **BRAYAND MADIORI** (‘the applicant’) was convicted in **HCCR Case No. 005 of 2018** for Manslaughter contrary to *section 202 as read with section 205 of the Penal Code*. He was on **14/7/2022** sentenced to 8 years’ imprisonment.
2. By a Motion on Notice dated **6/2/2026**, he has sought that his sentence be reviewed and *section 333(2) of the Criminal Procedure Code* be complied with, that is, that his sentence be made to run from the date of his arrest.
3. *Section 333(2) of the Criminal Procedure Code* 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. 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.”

4. That is an issue of law. The sentence was made by this Court. If the sentence was against that provision of the law, I do not think this Court has powers or jurisdiction to review the decision of a court of concurrent jurisdiction. If the applicant was aggrieved with that decision, that was an error of law which he should have appealed to the Court of Appeal. He cannot seek a review of that decision before this Court.
5. Accordingly, the application is found to be without merit and is dismissed. Let him appeal to the Court of Appeal which has jurisdiction to review and re-look at decisions of the High Court.

It is so ordered.

DATED and **DELIVERED** at Kisumu this 30th day of **April, 2026**.

A. MABEYA, FCI Arb

JUDGE