

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

CRIMINAL DIVISION

CRIMINAL MISC. APPLICATION NO. E128 OF 2025

JOHN OUMA OGANGA APPLICANT

- VERSUS -

REPUBLIC RESPONDENT

R U L I N G

1. **JOHN OUMA OGANGA** was on **21/9/2017** convicted with another for the murder of **Paul Obiero** on **30/11/2013** in Kisumu Town, Kisumu East District within Kisumu County. The offence was read to be contrary to ***section 203 as read with section 204 of the Penal Code.***
2. They were sentenced to serve 20 years imprisonment. They appealed to the Court of Appeal in **KSM Criminal Appeal No. 156 of 2017**. By a Judgment of that Court made on **20/9/2024**, it was held as follows: -

“We have considered the plea and the appellants against the gravity of the offence. It does not help to take the law into one’s hands. There can never be any justification to kill a person suspected of stealing a goat. We have no doubt that a stiff sentence is deserved. The two shall each serve a prison

term of 20 (twenty years) to be computed from the date of sentence at the High Court. Any period spent in custody during trial shall be discounted as prescribed by section 333(2) of the Criminal Procedure Act.”

3. Against this background, the applicant took out a Motion on Notice dated **15/7/2025** seeking that the duration he spent in custody pursuant to **section 333(2) of the Criminal Procedure Code** be taken into account and the sentence be reduced accordingly.
4. As can be seen from the order of the Court of Appeal in its Judgment of **20/9/2024**, that Court ordered that the applicant’s sentence do take into consideration the period he was placed in custody. That period is between **29/10/2014** and **20/2/2015**, a period of **115 days**.
5. Accordingly, the Motion is without merit. However, the Prison Service is directed to enter in its records that the sentence of 20 years that commenced on **27/9/2017** shall be less 115 days that the applicant was in custody during the trial.

It is so ordered.

DATED and **DELIVERED** at Kisumu this **24th** day of **April, 2026**.

A. MABEYA, FCI Arb

JUDGE