



**Kiio v Republic (Miscellaneous Criminal Application
E073 of 2023) [2024] KEHC 531 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 531 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CRIMINAL APPLICATION E073 OF 2023**

**A. ONG’INJO, J
JANUARY 25, 2024**

BETWEEN

DANIEL KIMANTHI KIIO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was convicted for the offence of murder in High Court CR. Case No. 30 of 2010 and sentence to serve 25 years jail term. Applicant now seeks that an order be made that he is entitled to the benefit of the period spent in remand custody prior to conviction pursuant to Section 333(2) of the Criminal Procedure Code.
2. When passing sentence on 30th day of November 2016 the trial Judge Hon. M.J. Anyora Emukule - MBS- J said:-

“In the circumstances, I would not sentence the accused to death, I would and hereby do sentence him to twenty-five (25) years in prison taking into account the years he spent in prison remand”.
3. This means that had the judge not factored in remand period he would have passed a sentence for a longer period than 25 years. Having expressly stated that remand period was considered, this application cannot be allowed. The same is dismissed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 25TH DAY OF JANUARY 2024**

HON. LADY JUSTICE A. ONG’INJO

JUDGE



In the presence of: -

Etropia - Court Assistant

Mr. Ngiri for the Respondent

Applicant present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

