



**Muruka v Republic (Miscellaneous Criminal Application  
143 of 2023) [2024] KEHC 4652 (KLR) (29 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4652 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION 143 OF 2023**

**DO OGEMBO, J  
APRIL 29, 2024**

**BETWEEN**

**WILSON OGWAN’G MURUKA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for Sentence Review from Sentence in High Court at Siaya, in Criminal Case No. 1 of 2016 delivered by Hon. Justice J. A. Makau - J, , dated 29<sup>th</sup> June 2017)*

**RULING**

1. The Applicant, Wilson Ogwang Muruka has filed the Application dated 10/8//2023 seeking that his sentence be revised to account for the period he spent in remand custody while he awaited the determination of his case. His application is brought under Section 333 (2) of the [Criminal Procedure Code](#). The prosecution has not made any substantive response to the application of the Applicant.
2. I have considered this Application of the Applicant. I have also perused the record of proceedings of the trial court. The same confirm that the Applicant was charged on 4/1/2016 with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). He was tried and convicted of the same.
3. On 29/6/2017, he was sentenced to serve 20 years imprisonment. I have further perused the sentence proceedings of 29/6/2017 in which the trial Judge (Hon. Justicer J.A Makau) clearly noted as follows:-  

“I have also taken into account the accused has been in custody from December 2015, which is a period of 1 year 5 months todate.”
4. The above clearly confirms that in sentencing the Applicant, the trial Judge duly took into account the period the Applicant took in remand custody. The plea of the Applicant that such period was not accounted for in the sentence is therefore misleading and inaccurate.



5. The period spent in remand custody having been considered in the sentence, this application of the Applicant clearly lacks any basis or merit. I dismiss same wholly. It is so ordered.

**DATED, SIGNED AND DELIVERED THIS 29<sup>TH</sup> DAY OF APRIL, 2024.**

**D. O. OGEMBO**

**JUDGE**

~~29/4/2024~~

**COURT**

Ruling read out in Open Court in presence of the Applicant (Kisumu Maximum) and Ms. Mumu for State.

**D. O. OGEMBO**

**JUDGE**

~~29/4/2024~~

