



**Obar v Republic (Miscellaneous Criminal Application  
E081 of 2024) [2024] KEHC 6186 (KLR) (29 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6186 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E081 OF 2024**

**RE ABURILI, J**

**MAY 29, 2024**

**BETWEEN**

**ERICK OTIENO OBAR ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. In the application dated 27<sup>th</sup> May 2024, the Applicant Erick Otieno Obar who is a convict in Kisumu Chief Magistrate Criminal Case No. 497 of 2024 was sentenced to serve several prison term sentences for the offences of obtaining money by false pretences; making a document without authority and uttering a document with intent to defraud.
2. He claims that prior to being sentenced on 24<sup>th</sup> January 2024, he had been in prison custody for one year and 2 months and 30 days which he seeks that this court does consider as stipulated in Section 333(2) of the *Criminal Procedure Code*.
3. The Applicant has not annexed a copy of charge sheet although he annexed court proceedings. The charge sheet would show the date of arrest.
4. The proceedings show that the convict took plea on 18<sup>th</sup> September 2019 and on 29<sup>th</sup> October 2020, he was released on bond after his surety one Vitalis Agutu Sako was approved by the court, just 12 days later.
5. The accused then absconded court and on 5<sup>th</sup> August 2020, a warrant of arrest was issued against him and this warrant was extended to 14<sup>th</sup> October 2020 and on the latter date, the warrant was lifted then the hearing proceeded.



6. When the accused engaged an advocate and sought for time to settle the money with the complainant, he stopped going to court and a warrant of arrest was again issued. He had to be tracked by the Investigators, through phone call data.
7. The long and short of it all is that the convict absconded court proceedings thereby causing delays in the hearing of the case.
8. He imposed the early prison sentence on himself. He was very stubborn and gave the court and investigators a hard time. The periods of abscondment are stated at page 37 of the Proceedings as supplied to this court.
9. Being in custody due to abscondment of court in breach of bond terms is self-imprisonment and therefore the convict herein cooked his own goose.
10. I find no reason to review the sentence imposed, noting that the convict took the investigators and the court round the circles.
11. I decline to grant the orders sought. The application is dismissed.
12. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 29<sup>TH</sup> DAY OF MAY, 2024**

**R. E. ABURILI**

**JUDGE**

