



REPUBLIC OF KENYA



**Hongo v Republic (Miscellaneous Criminal Application
E079 of 2024) [2024] KEHC 6184 (KLR) (29 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6184 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E079 OF 2024**

RE ABURILI, J

MAY 29, 2024

BETWEEN

PAUL OKOTH HONGO APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in the Senior Principal
Magistrate's Court Criminal Sexual Offences Case No. 823 of 2016 at Maseno)*

RULING

1. I have considered the application dated 21st April 2024 by Paul Okoth Hongo who is a convict *vide* Maseno SPM's Court Criminal Case No. 823 of 2016.
2. He was sentenced to serve ten (10) years imprisonment for the offence of rape contrary to Section 3(1) (a) (b) of the *Sexual Offences Act*.
3. The Applicant claims that he was in remand custody for one year and 6 months prior to being sentenced. However, there is no evidence by way of proceedings and judgment to confirm that he was in custody for the said period and therefore, calling upon this court to invoke the provisions of Section 333(2) of the *Criminal Procedure Code*.
4. For want of evidence that the convict was in custody for the period stated prior to the sentencing, I find the application devoid of any merit. It is hereby dismissed.
5. Signal to issue.
6. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 29TH DAY OF MAY, 2024

R. E. ABURILI



JUDGE

