



REPUBLIC OF KENYA



KENYA LAW
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**Rono v Republic (Criminal Revision E048 of 2024)
[2025] KEHC 9692 (KLR) (2 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9692 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E048 OF 2024**

E OMINDE, J

JULY 2, 2025

BETWEEN

ISAAC KARUGUT RONO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This Ruling is with respect to the Applicants' Notice of Motion dated 25th March 2024 seeking a review of sentence. The brief background underlying the Application is that the Applicant was charged in two separate matters with the offence of Robbery with Violence Contrary to Section 295 as read with Section 296(2) of the *Penal Code* in Eldoret CMCRC No. E608 of 2020 and in Kapsabet CMCRC No. E349 of 2020. He was convicted and sentenced to a term of 15 years' imprisonment in the Eldoret case and to a term of 13 years' imprisonment in the Kapsabet case.
2. His Application before this court now seeks that under Section 362 and 364 of the *Criminal Procedure Code* as read with Article 50(2)(q) of the *Constitution*, and the principal of concurrent sentences, the Court reviews the sentences and directs that they run concurrently. That further, under Section 333(2) of the *Criminal Procedure Code*, the court reduces his sentence in Eldoret CMCRC No. E608 of 2020 by the amount of time that he spent in custody. That he was placed in pre-trial custody on 17th October 2016 and was sentenced on 17th December 2019 bringing the total aggregate period to 3 years and 2 months.
3. The Prosecution did not file any response to the Application and did not also file any submissions. The Applicant too did not file any submissions. However, in an oral examination of the Applicant by the court, he confirmed that the two offences were committed on different dates, at different times, in different places, under different circumstances and with different complainants. That the Robbery in Eldoret was committed at Soi in Uasin Gishu County and the Robbery in Kapsabet was committed



at Chemwani Tea Estate in Nandi County. He clarified that he entered into a Plea Bargain Agreement in both cases.

Analysis & Determination

4. The following issues arise for determination;
 - i. Whether the court should review the sentences and have them run concurrently
 - ii. Whether the trial court took into consideration the time spent in pre-trial custody
5. On the two issues of whether the court should review the sentences and order that they run concurrently, the court has considered the cited Constitutional and Statutory provision.
6. Section 348 of the *Criminal Procedure Code* provides as hereunder;

No appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by a subordinate court, except as to the extent or legality of the sentence.
7. Even as the Applicant entered into a Plea Bargain Agreement under which an appeal against the conviction does not lie, the court notes that this Application is with respect to a review of sentence. In light of the provisions of the herein cited Section 348 of the CPC, the court is satisfied that the Application is properly before it and I shall therefore proceed to consider the same as hereunder
8. Section 14 of the *Criminal Procedure Code* provides as follows: -
 1. Subject to subsection (3), when a person is convicted at one trial of two or more distinct offences, the court may sentence him, for those offences, to the several punishments prescribed thereof which the court is competent to impose; and those punishments when consisting of imprisonment shall commence the one after the expiration of the other in the order the court may direct, unless the court directs that the punishments shall run concurrently.
9. In *Peter Mbugua Kabui v Republic* [2016] eKLR the Court of Appeal stated as follows:

“As a general principle, the practice is that if an accused person commits a series of offences at the same time in a single act/transaction a concurrent sentence should be given. However, if separate and distinct offences are committed in different criminal transactions, even though the counts may be in one charge sheet and one trial, it is not illegal to mete out a consecutive term of imprisonment.”
10. Further the *Judiciary's Sentencing Policy Guidelines*, at paragraph 7 provide as follows: -
 - “7. 13 – Where the offence emanates from a single transaction the sentences should run concurrently. However, where the offences are committed in the course of multiple transactions and where there are multiple victims the sentences should run consecutively”.
11. The Court of Appeal has defined the phrase ‘same transaction rule’ in the case of *Nathan v Republic* [1965] EA 777 where the court stated as follows: -

“If a series of acts are so connected together by proximity of time, criminality or criminal intent, continuity of action and purpose, or by relation of cause and effect as to constitute



one transaction, then the offences constituted by these series of acts are committed in the course of the same transaction.”

12. In light of the relevant Statutory provisions as well as Case Law as herein summarised, it is clear that a court can only order that sentences run concurrently where the offences emanates from a single act and/or transaction. In the instant case, even though the charges are similar, the court notes that the offences that comprises each charge were committed in different places on different dates and under different circumstances as already herein indicated. For this reason, they do not belong in a single transaction and the sentences meted out can therefore not run concurrently. The Application that the sentences in both cases be reviewed to run concurrently is therefore misconceived and lacks merit and the same is accordingly dismissed.
13. On the Application that the period spent in pre-trial remand custody before sentence be considered as provided under the mandatory provisions of Section 333(2) of the *Criminal Procedure Code*, I note from the judgement that the Learned Trial Magistrate stated categorically as follows when meting out the sentence

“ the sentence shall commence from 16th November 2020 the date upon which the accused was admitted to custody in this matter...”
14. In this regard, I am well satisfied that the period spent in remand custody during the period of the Trial was already accounted for in the 15-year sentence meted out to the Applicant. This being the case, I find that his Application under Section 333(2) of the *CPC* also lacks merit and the same is accordingly dismissed in its entirety. The upshot then is that they Applicant’s Application is dismissed in its totality for want of merit. Right of Appeal 14 days.

READ DATED AND SIGNED AT ELDORET ON 2ND JULY 2025

E. OMINDE

JUDGE

