



**Opiyo v Republic (Criminal Application E005 of 2024)
[2024] KEHC 10111 (KLR) (14 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10111 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL APPLICATION E005 OF 2024
RE ABURILI, J
AUGUST 14, 2024**

BETWEEN

EDWIN OCHIENG OPIYO APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence on 7.8.2022 in
WINAM SPM SO case No. E043 of 2022 by F. Rashid, PM)*

RULING

1. On 4.6.2024, the applicant was granted leave to file an appeal out of time from the judgment, conviction and sentence in Winan SPM Sexual Offences Case No. E043 of 2022 wherein he was charged with the offence of defilement contrary to section 8(1) as read with section 8(2) of the [Sexual Offences Act](#) and sentenced to serve 20 years imprisonment. The applicant was to file an appeal within 14 days of the date of the order. The matter was then scheduled for mention on 25th June 2024 to confirm compliance.
2. On the latter date, the matter could not be reached. The Court fixed it for further directions on 1/8/2024 on which date nothing transpired and now the registry has fixed it for 6/10/2024 for mention. Regrettably, the registry intimates that the prisons authorities claim that they were never served or notified of the order for leave to appeal as issued by the court and in time, and therefore what that means is that the timelines were given in vain as they lapsed without the applicant getting the orders for compliance in time.
3. That being the case, and in the interest of justice, I hereby review the order on timelines given in the order for leave to appeal out of time which has lapsed and enlarge the same by a further seven days from date of service of the order herein upon the applicant in prison.
4. Signal to issue forthwith.



5. As the appeal shall be filed in a different separate file, the mention dates are recalled and this file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 14TH DAY OF AUGUST, 2024

R.E. ABURILI

JUDGE

