



REPUBLIC OF KENYA



**Simiyu v Republic (Miscellaneous Criminal Application E170 of 2024)
[2024] KEHC 11593 (KLR) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11593 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E170 OF 2024
RE ABURILI, J
SEPTEMBER 26, 2024**

BETWEEN

ISAAC ZULA SIMIYU APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Kisumu Chief
Magistrate's Court Criminal Sexual Offences Case No. E016 of 2022)*

RULING

1. Isaac Zula Simiyu is a convict vide Kisumu CM Sexual Offences Case No. E016 of 2022 for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the [Sexual Offences Act](#).
2. He was sentenced to serve fifteen (15) years imprisonment, the sentence to start from date when he was placed in custody. This was on 29th July 2023.
3. He now applies for leave to appeal out of time vide application dated 21st May 2024.
4. I have considered the application. The sentence imposed was below the 20 years' Mandatory minimum under Section 8(3) of the [Sexual Offences Act](#). There is no reason advanced for the delay of over one year since conviction, with no appeal on time yet the non-represented convicts are always filing appeals without paying court fees.
5. I find the delay of over 14 months to be inordinate and unexplained.
6. I decline to grant leave sought. The application dated May 21, 2024 is dismissed and this file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 26TH DAY OF SEPTEMBER, 2024

R. E. ABURILI



JUDGE

