



**Mbago v Republic (Miscellaneous Criminal Application E072 of 2023)
[2023] KEHC 26831 (KLR) (18 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 26831 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E072 OF 2023
RE ABURILI, J
DECEMBER 18, 2023**

BETWEEN

LEAKEY OTIENO MBAGO APPLICANT

AND

REPUBLIC RESPONDENT

*(Arising from the original conviction and sentence in Senior Principal
Magistrate Court Criminal Sexual Offences Case No 1099 of 2014 at Nyando)*

RULING

1. The Applicant Leakey Otieno Mbago was convicted vide Nyando SPM Sexual Offences Case No. 1099 of 2014 for the offence of Rape contrary to Section 3(1) of the [Sexual Offences Act](#) on 6th June 2015 and sentenced to undisclosed term.
2. He now seeks leave to appeal out of time claiming he never received proper guidance on what to do.
3. Regrettably, all prisons in Kenya have paralegal services and even if there was delay, eight (8) years is too long by which time he may have served his sentence if he was of good character and received remission.
4. The delay is not satisfactorily explained and is not in the interest of justice even for the victim of the offence. What justice will the convict be seeking eight years after being imprisoned?
5. I find the applicant is mischievous and the application as filed dated 11th July 2023 and only filed into court on 23rd November 2023 to be an afterthought and abuse of court process.
6. The application is dismissed.
7. The file is closed.
8. I so order



DATED, SIGNED AND DELIVERED AT KISUMU THIS 18TH DAY OF DECEMBER, 2023

R. E. ABURILI

JUDGE

