



REPUBLIC OF KENYA



**Marende v Republic (Miscellaneous Criminal Application  
E138 of 2022) [2022] KEHC 14207 (KLR) (24 October 2022) (Ruling)**

Neutral citation: [2022] KEHC 14207 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E138 OF 2022**

**RE ABURILI, J**

**OCTOBER 24, 2022**

**BETWEEN**

**JOSEPH OPIYO MARENDE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for leave of court to appeal against conviction and sentence in PM's Bondo Criminal case No. 729 of 2016 delivered by Hon. J.P. Nandi, Principal Magistrate on 24/1/2018 AND in Siaya Criminal Appeal No. 9, 10, 11 & 12 [Consolidated] of 2018)*

**RULING**

1. The applicant Joseph Opiyo Marende seeks leave of court to file Notice of Appeal out of time.
2. Judgment was delivered on 30/11/2020 and communicated to him via signal on 4/12/2020 when he was at Kodiaga Maximum Prison. He was later transferred to Manyani Prison and is now at Naivasha Maximum Prison. He claims that he wrote to court but the prison authorities at Manyani did not send his application.
3. I have considered the application which is not opposed by the State.
4. The applicant is a convict of three counts of robbery with violence. Two of his victims succumbed. He was sentenced to serve fifty (50) years imprisonment on each count, sentences to run concurrently. On appeal, this court dismissed the appeal against conviction and sentence. He wishes to appeal to the Court of Appeal. The delay in filing Notice of Appeal is inordinate but it has been explained as being due to the movement from prison. to prison.
5. I exercise discretion and grant the applicant leave to file his Notice of Appeal to the High Court out of time. However, the applicant is responsible for the prosecution of his appeal. He should apply for proceedings and judgment and pay for the same together with court fees as shall be assessed by the



court for the preparation and submission of the required copies of the record of Appeal to the Court of Appeal within the stipulated statutory period.

6. I hereby further order that the Notice of Appeal dated 11/9/2022 and filed in this court on 17/10/2022 shall be deemed to be duly filed as at today. The Deputy Registrar to serve a copy to the ODPP and to transmit a copy thereof duly certified to the Deputy Registrar Court of Appeal, Kisumu, accompanied by this Ruling forthwith.
7. Proceedings in the appeal file should be typed to completion.
8. I so order.
9. This File is closed.

**DATED, SIGNED AND DELIVERED AT SIAYA, THIS 24<sup>TH</sup> DAY OF OCTOBER 2022**

**R.E. ABURILI**

**JUDGE**

