



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**MISC. CRIMINAL APPLICATION NO. 28 OF 2019**

**DENNIS ODHIAMBO OKELLO ..... APPLICANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**RULING ON LEAVE TO APPEAL OUT OF TIME**

1. The Applicant/Convict **Dennis Odhiambo Okello** was on 22.7.2019 convicted and sentenced to serve 15 years imprisonment by Bondo P.M's Court in Bondo P.M. (S.O.) case No. 63/2018 for gang rape. He brings this application seeking for leave to appeal out of time.
2. His explanation for the delayed appeal is that he was transferred from Siaya G.K. Prison to Kodiaga before filing his appeal hence the confusion.
3. The prosecution does not oppose the application.
4. I have considered the application by the applicant convict. Under **Section 349 of the Criminal Procedure Code**, *the court to which an appeal is made may for good cause admit an appeal after the period of fourteen days has lapsed and shall so admit an appeal if it is satisfied that the failure to enter the appeal within that period has been caused by the inability of the applicant or his advocate to obtain a copy of the judgment or order appealed against, and a copy of the record, within a reasonable time of the applying to the court therefore.*
5. There is delay in filing his appeal which ought to have been filed within 14 days from the date of judgment but the delay has been explained and is not inordinate considering the applicant is unrepresented and is in Prison.
6. To enable the applicant convict exercise his right of appeal, the applicant is hereby granted leave to file his appeal within 14 days of today.
7. This file is closed.
8. Orders accordingly.

**Dated, signed and delivered at Siaya this 29<sup>th</sup> day of October, 2019.**

**R. E. ABURILI**

**JUDGE**

**In the presence of:**

The applicant in person

Mr Okachi Senior Principal Prosecution Counsel for the State

CA: Brenda and Modestar