



**REPUBLIC OF KENYA**

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

**MISC. CRIMINAL APPLICATION CASE NO. 46 OF 2017**

**JOSEPHAT MURIGIA .....APPLICANT**

**-VERSUS-**

**REPUBLIC .....RESPONDENT**

**RULING**

1. JOSEPHAT MURIGIA has applied for leave to appeal to the Court of Appeal out of time. He is aggrieved against the judgment of this Court (Hon. Wendoh J.) made on 21<sup>st</sup> November, 2014 upholding the judgment of the Senior Resident Magistrate's Court, Marimanti wherein he had been convicted with the offence of grievous harm contrary to **Section 234 of the Penal Code** and sentenced to 20 years imprisonment.
2. The time for appealing expired on 5<sup>th</sup> December, 2014. The present application was lodged on 17<sup>th</sup> November, 2017. There is therefore a delay of three (3) years. That is in all circumstances, inordinate.
3. The reasons advanced for the delay is that there occurred a filing problem between the Prisons Documentation Office and this Court's registry whereby he was unable to lodge his appeal in time. The Applicant has contended that the intended appeal has overwhelming chances of success.
4. Having considered the case in its entirety, I do not find the reasons advanced for the delay to be credible. While it is not farfetched that, in the normal course of events, there can be breakdown of communication between this Court's registry and the Prisons Department wherein the applicant is being held, three years in unreasonably long time to wait to seek extension of time. To my mind, the explanation given is not plausible.
5. Further, and what weighed heavily on my decision is that despite the long sentence, the applicant has already had the benefit of his case being considered by two courts. He must have been satisfied with the outcome of the case, the reason for his delay.
6. In the circumstances, I find no reason to grant the extension of time sought.

**DATED and DELIVERED at MERU this 24<sup>th</sup> day of January, 2018.**

**A. MABEYA**

**JUDGE**