

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISC. CR. APPLICATION NO. 44 OF 2018

(DEFILEMENT)

(CORAM: R. E. ABURILI - J.)

JAMES OOKO ODUOR.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

On 2/2/2017, Hon. Majanja J delivered a judgment which dismissed the appeal filed by the applicant herein James Ooko Oduor vide HCCRA 81/2016 wherein the Appellant challenged his conviction and sentence for the offence of defilement by SRM Ukwala Hon. R.M. Oanda on 1/3/2016.

It was alleged that he had defiled G.A, a child aged 15years on 15/1/2015 in Ugenya District of Siaya County by intentionally causing his penis to penetrate the vagina of G.A, a child aged 15 years.

The learned Judge confirmed the conviction and sentence and dismissed the appeal. The Appellant / Applicant now seeks in these proceedings, leave to file appeal from the said judgment, out of time as a poor person under **Rule 113(2) and (5) of the Court of Appeal Rules**.

I have considered the application dated 20/2/2018 and the grounds as per the supporting affidavit. I am not satisfied that there is sufficient cause or ground to grant leave to appeal out of time as a pauper and secondly, the intended appeal is a second appeal. No single ground or issue of law has been placed before this Court as being an issue or question of law proper for determination by the Court of Appeal.

Finally, incarceration in itself does not render one a pauper, accordingly, the application is hereby dismissed.

Dated, Signed and Delivered at SIAYA this 31ST DAY OF JULY 2018.

R.E. ABURILI

JUDGE