

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIVASHA

MISCELLANEOUS CRIMINAL APPLICATION NO. 2 OF 2015

BONIFACE ONDONGO OIRERE.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

R U L I N G

1. The accused was charged with Robbery with violence Contrary to Section 296 (2) of the Penal Code. He was tried and convicted by the learned Senior Principal Magistrate, Narok. On 19/12/2014 he was sentenced to death.
2. He lodged the present application on 27th February, 2015 seeking leave to file his appeal out of time. The delay according to the depositions in the supporting affidavit was occasioned by the personal circumstances of his advocate.
3. The Director of Public Prosecutions through Ms Kavindu opposed the application. She submitted that the reasons given were not satisfactory and further that the appeal has no chance of success.
4. I have considered the matters canvassed. The delay of two months is quite long. Counsel for the applicant takes responsibility for the delay which he ascribes to his personal circumstances.
5. The accused was convicted on a serious charge. He was sentenced to death. The mistakes, if any or tardiness on the part of his advocate should not be visited upon him in the circumstances of this case.
6. In light of the seriousness of the charges, I would allow the application and direct that the petition of appeal be filed within 14 days of today's date.

Delivered and signed this 23rd day of March, 2015 in the presence of:

State

Advocate for the Applicant

Court Clerk

C. W. MEOLI

JUDGE