



**Kerongo v Republic (Miscellaneous Application E276 of 2024)  
[2025] KEHC 1403 (KLR) (Crim) (20 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 1403 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
MISCELLANEOUS APPLICATION E276 OF 2024  
CJ KENDAGOR, J  
JANUARY 20, 2025**

**BETWEEN**

**EVANS MANGOI KERONGO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was convicted and sentenced to life imprisonment in Makadara Chief Magistrate's Court Criminal Case No. 288 of 2018 for the offence of defilement contrary to Section 8 (1) as read with Section 8 (2) of the *Sexual Offences Act*.
2. He preferred an appeal to the High Court via Milimani Criminal Appeal No. 47 of 2021. The High Court upheld the trial Court's conviction and life imprisonment sentence in a judgment delivered by Hon. Lady Justice Dora Chepkwony on 3<sup>rd</sup> May, 2022.
3. Although aggrieved, the Applicant failed to lodge his notice of appeal within the statutory-stipulated time of fourteen (14) days.
4. The time for filing an appeal and the power to extension of time for appeal is provided for under Section 349 of the *Criminal Procedure Code* as follows:

“ 349. An appeal shall be entered within fourteen days of the date of the order or sentence appealed against. Provided that the court to which the appeal is made may for good cause admit an appeal after the period of fourteen days has elapsed, 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 appellant 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 applying to the court therefore.”

5. Rule 61 (1) of the [Court of Appeal Rules](#) provides as follows;

“Notice of appeal

1. A person who desires to appeal to the Court shall give notice in writing, which shall be lodged in six copies with the registrar of the superior Court at the place where the decision against which it is desired to appeal was given, within fourteen days after the date of that decision, and the notice of appeal shall institute the appeal.”

6. The Applicant lodged the present application seeking leave to appeal out of time to the Court of Appeal against the decision by the High Court, which was delivered on 3<sup>rd</sup> May, 2022.

7. The application title indicates that it was to be presented at the Court of Appeal in the Nairobi registry but was lodged at the High Court.

8. The application seeks an extension of time to file an appeal out of time under Rule 4 of the [Court of Appeal Rules](#). The rule provides as follows;

“4. Extension of time

The Court may, on such terms as may be just, by order, extend the time limited by these [Rules](#), or by any decision of the Court or of a superior court, for the doing of any act authorized or required by these [Rules](#), whether before or after the doing of the act, and a reference in these [Rules](#) to any such time shall be construed as a reference to that time as extended.”

9. This Court has no jurisdiction to entertain the application for an extension of time to lodge an appeal at the Court of Appeal. The Applicant is advised to pursue the application before the Court of Appeal. As he is in custody and the documents are sent through the Prison department, the officer-in-charge of the Prison where he is remanded will be provided with a copy of this ruling.

10. The application for an extension of time to file an appeal is hereby struck out as it was improperly submitted to this court.

11. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 20<sup>TH</sup> DAY OF JANUARY, 2025.**

**C. KENDAGOR**

**JUDGE**

In the presence of:-

Court Assistant: Beryl

Ms. Bosibori, ODPP

Applicant present

