



**Omuse v Republic (Criminal Case E073 of 2024)
[2025] KEHC 6806 (KLR) (26 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6806 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL CASE E073 OF 2024
RN NYAKUNDI, J
MAY 26, 2025**

BETWEEN

RODGERS ERARY OMUSE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before this court is an application dated 22nd day of May 2023 seeking the following orders:
 - i. That I am the appellant herein seeking to appeal out of time in criminal case no. 1647 of 2017 at Kitale High court for the offence of murder contrary to section 203 as read with 204 of penal code
Which Application is made in the following grounds:
 - ii. That the trial learned judge erred in law by convicting appellant but failed to note that evidence of identification was based on a single identifying witness on di difficult circumstances thus was not free from possibilities of errors
 - iii. That the trial learned judge erred in law by convicting and sentencing the appellant but failed to note that the elements of the offence charged were never proved against the appellant to the required standards
 - iv. That the trial learned judge erred in law by convicting and sentencing the appellant without adequately analyzing the appellant's defense.
 - v. That the trial learned judge erred in law by convicting and sentencing the appellant inconsistence evidence
 - vi. That I pray to be supplied with a copy of the appellant court's proceeding and it's judgement



- vii. That further grounds shall be adduced at the hearing of this appeal.
- viii. That the appellant herein is a poor man and a pauper hence requesting for a waiver
- ix. That , I wish to be present during hearing and determination of this appeal out of time against the sentence on the following grounds

Which Application is supported by an affidavit sworn by the said Rodgers Eraru Omuse

- i. That That I am a Kenyan citizen male adult of sound mind the appellant herein and as such conversant with the facts of the case and therefore competent to swear this affidavit
- ii. That I was charged with the offence of murder contrary to section 203 as read with section 204 of the penal code
- iii. That the trial learned judge erred in law by convicting appellant but failed to note that evidence of identification was based on a single identifying witness on di difficult circumstances thus was not free from possibilities of errors
- iv. That the trial learned judge erred in law by convicting and sentencing the appellant but failed to note that the elements of the offence charged were never proved against the appellant to the required standards
- v. That the trial learned judge erred in law by convicting and sentencing the appellant without adequately analyzing the appellant's defense
- vi. That the trial learned judge erred in law by convicting and sentencing the appellant inconsistency evidence
- vii. hat the appellant could not appeal on time because he was not supplied with the high court judgement on time to enable him appeal on time
- viii. That due to my earlier intention to appeal, I beg leave of this honourable court for an extension to appeal out of time
- ix. That the appellant herein is a poor man and a pauper hence requesting for a waiver
- x. That I wish to be present during hearing of this appeal.

2. This Application is in the wrong forum it should be filed in the Court of Appeal

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 26TH DAY OF MAY 2025

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R. NYAKUNDI

JUDGE

