



**Nyarodi v Republic (Miscellaneous Criminal Application  
E017 of 2024) [2024] KEHC 5049 (KLR) (6 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5049 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E017 OF 2024**

**RE ABURILI, J**

**MAY 6, 2024**

**BETWEEN**

**MAXWEL OMONDI NYARODI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in the Senior Principal Magistrate's  
Court Criminal Sexual Offences Case No. E033 of 2022 at Winam)*

**RULING**

1. The Applicant Maxwell Omondi Nyarodi was convicted of the offence of defilement contrary to Section 8(1) as read with Section 8(2) of the [Sexual Offences Act](#).
2. He was sentenced to serve life imprisonment vide Winam SPM Sexual Offences Case No. E033 of 2022. This was on 31<sup>st</sup> March 2023 which is over one year ago.
3. He has now applied vide a Notice of Motion dated 10<sup>th</sup> January 2024 for leave to appeal out of time. He claims that he did not have an advocate or proceedings. I also note that from the warrant of commitment to prison, he was not informed of the right of Appeal.
4. Despite delay which is inordinate, justice can still be served as the Applicant is serving life in prison.
5. I exercise discretion and grant the Applicant/Convict leave to appeal out of time from Winam SPM Sexual Offences Case No. E033 of 2022.
6. The appeal shall be filed within fourteen (14) days from the date of this Ruling.
7. Signal to issue.
8. I so order.



9. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 6<sup>TH</sup> DAY OF MAY, 2024**

**R. E. ABURILI**

**JUDGE**

