



**Ochieng v Republic (Miscellaneous Criminal Application
E089 of 2024) [2024] KEHC 7290 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7290 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E089 OF 2024**

RE ABURILI, J

JUNE 13, 2024

BETWEEN

MAXWEL OGAM OCHIENG APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in the Senior Principal Magistrate's
Court Criminal Sexual Offences Case No. E078 of 2021 at Winam)*

RULING

1. The Applicant is Maxwel Ogam Ochieng. He was convicted and sentenced to serve ten (10) years imprisonment on 8th August 2023 for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* vide Winam SPM Sexual Offences Case No. E078 of 2021.
2. He now applies by his Notice of Motion dated 27th May 2024 for leave to appeal out of time on the ground that he did not have any money to appeal and his cousin who promised to help him engage an advocate failed to do so due to poverty. Further that he did not get copy of court proceedings hence, unless leave is granted, his right to appeal will be violated.
3. I have considered the application. Despite the delay, justice can still be served for the convict who deserves to be accorded an opportunity to be heard on appeal to challenge the conviction and sentence imposed on him.
4. I grant leave to the Applicant to appeal out of time. The intended appeal shall be filed within 14 days of the date of service of this order upon the applicant/convict through Prisons Authorities.
5. The Ruling to be typed and served upon the applicant in prison.
6. This file is closed.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 13TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

