



**Omukanakana v Republic (Miscellaneous Criminal Application
E060 of 2022) [2023] KEHC 3827 (KLR) (2 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 3827 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E060 OF 2022**

RE ABURILI, J

MAY 2, 2023

BETWEEN

NASHON ATINGO OMUKANAKANA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This application was filed on May 10, 2022 nearly one (1) year ago. The Applicant Nashon Atingo Omukanakana seeks leave of court to file an appeal against sentence out of time. The date of conviction and sentence in Maseno Senior Principal Magistrate Criminal Case No. 185 of 2019 is August 20, 2020 which is over 2.5 years ago.
2. The application was filed after nearly two years after sentencing. The applicant claims that he was convicted of the offence of robbery with violence contrary to Section 296(2) of the *Penal Code* and sentenced to serve thirty (30) years imprisonment.
3. There is no explanation for the delay. In addition, the sentence of thirty (30) years imprisonment as imposed for the offence of robbery with violence is lenient and way below the Mandatory death sentence.
4. I am not persuaded that the intended appeal is arguable. I find the delay inordinate and unexplained. The application is an afterthought. I decline to grant leave to appeal out of time and dismiss the application dated May 9, 2022 and filed in court on May 10, 2022.
5. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 2ND DAY OF MAY, 2023

R. E. ABURILI

JUDGE

