



**Kiprotich v Republic (Miscellaneous Criminal Application
E050 of 2022) [2023] KEHC 19007 (KLR) (19 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19007 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E050 OF 2022**

RE ABURILI, J

JUNE 19, 2023

BETWEEN

OMOLLO HILLARY KIPROTICH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant/Convict is Omollo Hillary Kiprotich. He was convicted and sentenced on March 2, 2022 vide Tamu PM Sexual Offences Case No E030 of 2021 for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* No 3 of 2006.
2. He was sentenced to serve fifteen (15) years imprisonment. Later on April 26, 2022, he filed an application in this file for leave to appeal out of time. The court did grant him that leave on November 3, 2022.
3. Regrettably, I cannot find that order extracted and send to the convict in prison as it ought to be. The file was filed away and even the original case file from Tamu Law Courts was availed to this court in this file on March 8, 2023 yet there is nothing for consideration.
4. For the above reasons, I make the following orders:
 - a. That the Registry establishes whether the Convict Omollo Hillary Kiprotich filed any appeal pursuant to the order of November 3, 2022.
 - b. That if such appeal does exist in this court, then Tamu PM Sexual Offences Case No E030 of 2021 which is housed herein be placed in that file and brought before this court for admission of the appeal to hearing.
 - c. That if no appeal was filed, as the order was issued on November 3, 2022 in the presence of the Convict/Applicant, then the time lapsed and there was no need of the lower court file being



submitted to this court hence, the lower court file Tamu PM Sexual Offences Case No. E030 of 2021 shall be returned to Tamu Law Courts forthwith.

5. That this file already served its purpose for which it was opened following the grant of leave to appeal on November 3, 2022 hence this file is hereby closed.

6. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF JUNE, 2023

R E ABURILI

JUDGE

