



**Mboya v Republic (Miscellaneous Criminal Application  
E032 of 2023) [2023] KEHC 19009 (KLR) (19 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19009 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E032 OF 2023**

**RE ABURILI, J**

**JUNE 19, 2023**

**BETWEEN**

**ERICK OMONDI MBOYA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant is Erick Omondi Mboya. He filed this application on June 8, 2023 seeking leave of court to file an appeal out of time from the sentence passed in Kisumu CM Criminal Case No 525 of 2018.
2. He claims that he was convicted on November 5, 2021. No copy of proceedings are annexed. The offence with which he was convicted and sentenced to death is Robbery with violence contrary to Section 296(2) of the *Penal Code*.
3. He has annexed copy of warrant of commitment to prison dated December 1, 2021 by Hon SN Telewa, SRM, Kisumu. He does not explain the reasons for the delay. He states that he only wants to appeal against sentence of death imposed on him.
4. I observe that vide HC Misc Criminal Application E128 of 2022 filed on December 15, 2022 one year after sentence, the same convict/applicant herein attempted to file an application which was entered in the CTS but no documents were received. That file is pending and is before me for directions.
5. Albeit there was unexplained delay of one year to file the intended appeal, I exercise discretion and grant the convict Erick Omondi Mboya a self-represented convict leave to file an appeal from sentence imposed in Kisumu CMCR Case No 525 of 2018.
6. The appeal shall be filed within fourteen (14) days of today.
7. This file is hereby closed.



8. I so order.

**Dated, Signed and Delivered at Kisumu this 19<sup>th</sup> Day of June, 2023**

**R. E. ABURILI**

**JUDGE**

