



**Korie v Republic (Criminal Appeal E069 of 2024)
[2024] KEHC 14159 (KLR) (15 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14159 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL APPEAL E069 OF 2024
RE ABURILI, J
NOVEMBER 15, 2024**

BETWEEN

LAWRENCE KORIE APPELLANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Senior Principal
Magistrate's Court Criminal Case No. E057 of 2024 at Tamu)*

RULING

1. On 11th November 2024, this court struck out this appeal on account that it was filed out of time without leave of court extending time for filing the same.
2. Counsel for the Appellant had filed copy of the order extending time for filing of the appeal out of time issued vide HC Criminal Misc. No E147 of 2024. The Appellant never disclosed on the body of the appeal that leave to appeal out of time was granted and therefore this court could not take judicial notice of leave granted in a Miscellaneous file which was closed.
3. The duty of parties filing appeals out of time with leave of court is to disclose or file the appeal with copy of the order for leave since appeals are filed in totally different files.
4. Having confirmed that leave to appeal out of time was sought and granted by this court in HC Criminal Misc. Application No E147 of 2024, I hereby review and set aside the order of 11th November 2024 summarily rejecting this appeal and striking out the appeal. I substitute thereof with an order reinstating the appeal and reopening the file.
5. I consequently admit the appeal to hearing.



6. The Appellant is directed to file and serve a complete record of appeal now that the lower court file is available in this file, within 21 days of this Ruling.
7. Mention in the new term on 22nd January 2025 for directions on appeal.
8. The Appellant to serve the Respondent State.
9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 15TH DAY OF NOVEMBER, 2024.

R. E. ABURILI

JUDGE

