



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT SIAYA**

**MISCELLEANOUS APPLICATION NO. 61 OF 2020**

**JOSEPH ONGANG NYATONDI ... APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**(Being an application seeking leave to appeal out of time)**

**RULING:**

1. The applicant Joseph Ongang Nyatondi claims that he was convicted on 28.7.2015 vide Siaya Principal Magistrate's Court Criminal Case No. 176 of 2014 for an offence which is not disclosed in his pleadings. He also claims that he filed an appeal which has not been acted upon. He does not disclose the Appeal Case file Number and when it was lodged in time in 2015. He now claims that that appeal has taken too long to be acted upon hence he seeks leave to file a fresh appeal out of time.

2. I have considered the application and note that the applicant is a liar. There is no such appeal pending in our Court records, for the year 2015. There is no such missing file in our Court records. The applicant is mischievous and dishonest. If such appeal exists, he should simply have asked for a date or copies of the record of appeal to be served upon him to enable him prepare for the hearing of the appeal.

3. He has not explained, honestly, the reasons for inordinate delay. The application is devoid of merit for extreme laches and for non-disclosure of material facts.

4. The same is hereby dismissed.

5. File closed.

6. Orders accordingly.

**Dated, signed and delivered at Siaya this 1<sup>st</sup> day of September, 2020**

**R. E. ABURILI**

**JUDGE**