

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

MISCELLANEOUS CRIMINAL APPLICATION CASE NO. 14 OF 2019

KERRY ODHIAMBO GWANDA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal against both the conviction and sentence dated

26.3.2019 in Bondo PM CR C (S.O.) 119 of 2016 before Hon. E.N. Wasike – SRM)

RULING

1. The judgment of this Court was delivered on **26.3.2019** dismissing the appellant's appeal against conviction and sentence from original Bondo S.O. **No. 119 of 2016**. ***This was in Siaya High Court Criminal Appeal No. 82 of 2017***. The Applicant herein did not file his Notice of Appeal within 7 days as required by law and instead filed an application for leave to file an appeal as a pauper and to file an appeal out of time.

2. I have considered his applications and the annexed Memorandum of Appeal which on the face of it challenges the decisions of the trial Court not of this Court. The delay in filing Notice of Appeal is not explained to the satisfaction of this Court and there are no points of law to be considered. He claims the trial Court, among others failed to appreciate that the evidence on record did not support the charge of ***Murder*** yet the record shows that he was convicted for the offence of ***defilement contrary to section 8(1) as read with Section 8(4) of the Sexual Offences Act***.

3. I find no merit in the application dated 9.7.2019. I dismiss the same.

4. File closed.

Dated, Signed and Delivered at Siaya this 11th day of November 2019.

R.E. ABURILI

JUDGE