



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Wangechi v Republic (Criminal Application E043 of 2025)
[2025] KECA 1503 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KECA 1503 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E043 OF 2025
JM NGUGI, JA
SEPTEMBER 19, 2025**

BETWEEN

DAVID THUO WANGECHI APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application for extension of time to file an appeal
against the Judgment of the High Court of Kenya at Murang'a,
(Kimondo, J.) dated 12th June, 2018 in HCCRA No. 12 (A) of 2016)*

RULING

1. This is a Notice of Motion dated 25th June, 2025 brought under Rule 4 of the Court of Appeal Rules, 2022 by the Applicant, David Thuo Wangechi, who seeks extension of time to file and serve an appeal out of time against the judgment of the High Court at Murang'a (Kimondo, J.) delivered on 12th June, 2018 in Murang'a HCCRA No. 12(A) of 2016.
2. In the judgment, the High Court affirmed both the conviction and sentence by the magistrate's court at Kigumo in Criminal Case No. 1422 of 2015 (Hon. Ogonda). The Applicant was convicted of defilement under section 8(1) as read with section 8(2) of the *Sexual Offences Act*, and was sentenced to life imprisonment.
3. The Applicant explains in his supporting affidavit that the delay in lodging the appeal within the prescribed time was occasioned by a prolonged illness; lack of access to legal resources while incarcerated at Nyeri Main Prison; lack of access to proceedings; and other logistical challenges. The Applicant urges that the delay was not deliberate and prays that this Court exercises its discretion in his favour.
4. The application was filed from Nyeri Main Prison, and the Applicant emphasizes his limited access to legal resources and facilities as a factor contributing to the delay.



5. The Respondent has not opposed the application.

6. Rule 4 of the Court of Appeal Rules, 2022 provides:

“The Court may, on such terms as it thinks just, by order extend the time limited by these Rules, or by any decision of the Court or of a superior court, for the doing of any act authorized or required by these Rules, whether before or after the doing of the act, and a reference in these Rules to any such time shall be construed as a reference to that time as extended.”

7. The applicable principles were set out in *Leo Sila Mutiso v Rose Hellen Wangari Mwangi* [1999] 2 EA 231, where the Court stated:

“It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well settled that in general the matters which this Court takes into account in deciding whether to grant an extension of time are, first the length of the delay; secondly, the reason for the delay; thirdly (possibly), the chances of the appeal succeeding if the application is granted; and, fourthly, the degree of prejudice to the respondent if the application is granted.”

8. I have considered the application and the explanation offered. The delay has been satisfactorily explained as arising from the Applicant’s incarceration and challenges in accessing legal processes. The Respondent has not opposed the application. I am persuaded that the delay is not inordinate in the circumstances, and that no prejudice will be occasioned to the Respondent if time is enlarged. On the other hand, to refuse the application would deny the Applicant an opportunity to ventilate his appeal yet he is serving a sentence of life imprisonment.

9. In the result, the application has merit. The time for filing and serving the appeal is hereby extended. The Applicant shall file notice of appeal within fourteen (14) days from the date hereof.

10. Orders accordingly.

DATED AND DELIVERED AT NYERI THIS 19TH DAY OF SEPTEMBER, 2025.

JOEL NGUGI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

