



REPUBLIC OF KENYA



KENYA LAW
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**Wanjiku v Republic (Criminal Application E044 of 2025)
[2025] KECA 1494 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KECA 1494 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E044 OF 2025
JM NGUGI, JA
SEPTEMBER 19, 2025**

BETWEEN

WILLIAM MWANGI WANJIKU APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for leave to appeal out of time against the Judgment of the High Court of Kenya at Nyeri, (Kendagor, J.) dated 28th August, 2024 in HCCRA No. E023 of 2023)

RULING

1. Before me is a Notice of Motion dated 27th March, 2025 brought under Rule 4 of the Court of Appeal Rules, 2022, by which the Applicant, William Mwangi Wanjiku, seeks leave to file and serve an appeal out of time against the judgment of the High Court at Nyeri (Kendagor, J.) delivered on 28th August 2023 in HCCRA No. E023 of 2023.
2. The Applicant was convicted of the offence of defilement contrary to section 8(1) as read with section 8(4) of the *Sexual Offences Act* and sentenced to 15 years' imprisonment by the Principal Magistrate at Mukurweini Law Courts on 17th March 2023. His first appeal to the High Court was dismissed on 28th August 2023.
3. The Applicant explains that he was not supplied with a copy of the judgment of the High Court within time, which hindered him from preparing and lodging his appeal within the prescribed period since he was in custody.
4. The Respondent, represented by the DPP, does not oppose the application.



5. 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.”

6. The applicable principles were well enunciated 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.”

7. I have considered the application. The delay has been explained as arising from the Applicant not being supplied with a copy of the judgment in time. The explanation is candid and reasonable in the circumstances of an incarcerated litigant.

8. The Respondent has not opposed the application, and no prejudice has been shown to be suffered if the orders sought are granted. On the other hand, to deny the application would effectively shut out the Applicant from exercising his constitutional right of appeal.

9. In the result, I find the application merited. I allow it and extend the time within which the Applicant may file his notice of appeal out of time.

10. The Applicant shall file and serve the notice of appeal within fourteen (14) days of the date of this ruling.

11. Orders accordingly.

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

JOEL NGUGI

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

