



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT KISUMU**  
**(CORAM: OWUOR, J.A. (IN CHAMBERS))**  
**CRIMINAL APPLICATION NO. NAI. 3 OF 1998**  
**BETWEEN**

**CHRISTOPHER NYABAYO NYAMUKO .....APPLICANT**  
**AND**  
**REPUBLIC .....RESPONDENT**

**(Application for leave to appeal out of time from a  
Judgment of the High Court of Kenya at Kisii (Mbaluto, J)  
dated 20th November, 1996**

**in  
H.C.C.CR.C NO. 48 OF 1996)**

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**R U L I N G**

The applicant Christopher Nyambayo Nyamuko was jointly charged with three other persons with the offence of Murder. He was tried and convicted of Manslaughter and sentenced to three years imprisonment. He was dissatisfied with the Conviction and Sentence, he decided to appeal and to that end instructed an advocate (M/s Mainye) .

He did not know that no appeal had been preferred on his behalf till he appeared before Court on 24th March, 1998 for the purpose of having the appeal heard. He still wants to canvas his appeal hence this application filed on 15th of June, 1998 for extension of time for filing his appeal out of time. He is convinced that although he has since served his Imprisonment Sentence his appeal has merit. In the memorandum of appeal he lists at least nine grounds upon which he intends to take up in the appeal. A casual glance at the grounds raised I am satisfied that the appeal is not frivolous. If I may also add this is the same conclusion that this Court has arrived at in Criminal Application No. Nai.4 of 1998 which involved one of the applicants Co-appellant. Consequently, I hereby grant the applicant leave to file his Memorandum of appeal within 14 days from the date of this order.

**Dated and delivered at Kisumu on this 19th day of March, 1999.**

**E. OWUOR**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**