

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
CORAM: OMOLO, J.A. (IN CHAMBERS)
CRIMINAL APPLICATION NO. NAI 10 OF 1999
BETWEEN**

**REPUBLIC APPLICANT
AND
FRANCIS NDUNGU KIRORI
WANYONYI WAMATU
EVERLYNE MURUGI RUFUS
CECILIA WAMBUI NJOROGE
PATRICK GATHITHO WAITHAKARESPONDENTS**

**(Application for extension of time to file notice of
appeal out of time from a ruling of the High Court
of Kenya at Nairobi (Osiero J) dated 18th June, 1998**

**in
H.C.CR.Rev. NO. 47 OF 1997)**

R U L I N G

With respect to both Mr Okumu and Mr Ngwiri, I do not think I am called upon in this application to decide on the issue of whether or not the point of law is sufficiently important to warrant my extending the time. But I agree that is a factor the Court has to take into account. It is, however, agreed that the applicant had a right of appeal. The applicant in fact filed a notice of appeal but the same was struck out because it was defective. The striking out was on the 2nd June, 1999. On the 22nd June, 1999, the applicant lodged the present motion. There was a delay of twenty days which Mr Okumu explains on the basis that they were waiting for certified copy of the court order striking out their notice of appeal and that without the certified order the present motion would be defective. I very much doubt the correctness of that proposition, but in the end I have decided that a delay of twenty days is not such an inordinate one as should deprive me of my discretion to extend time. I accordingly allow the motion and make the following orders: 1.The applicant must first lodge its notice of appeal within seven days of the date hereof;

2.The applicant must then lodge its record of appeal within a further seven (7) days from the date of lodging the notice of appeal. These shall be my orders in the motion.

Dated and delivered at Nairobi this 1st day of November,

1999.

**R.S.C. OMOLO

JUDGE OF APPEAL**

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

DEPUTY REGISTRAR