

IN THE COURT OF
APPEAL AT NAKURU
(CORAM: WARSAME, J.A. IN CHAMBERS)
CRIMINAL APPLICATION NO. E037 OF
2025 BETWEEN

PAUL KIPLANG'AT MUTAI.....APPLICANT
AND
REPUBLIC.....RESPONDENT

(An application to for extension of time to file an appeal against the judgment of the High Court at Nakuru (Kiarie, J.) delivered on 12th September, 2019

in

HCCRA NO. 144 OF 2015)

RULING

1. The applicant has filed the instant application dated 19th March 2025 seeking extension of time to file a notice of appeal out of time under Rule 4 of the Court of Appeal Rules. The applicant seeks to challenge the judgment delivered on 12th September 2019 by the High Court dismissing his appeal against a conviction and sentence of life imprisonment for the offence of Defilement contrary to Section 8(1) as read with Section 8(2) of the Sexual Offences Act.
2. Given that the High Court judgment was delivered on 12th September 2019, the applicant should have filed his notice

of

appeal by early October 2019 if he intended to appeal. The current application was filed on 19th March 2025, approximately 5 years and 6 months after the judgment was delivered.

3. The reasons for delay as stated on the face of the application are that the applicant did not appeal on time because he was not supplied with the High Court judgment in time to prepare his appeal on time.
4. The court has settled on the matters which should be taken into consideration when the court was called upon to exercise its discretion. Those matters, as was stated in the case of **Leo Sila Mutiso vs Helen Wangari, (NRB) Civil Application No. 251 of 1997**, include:

“... 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.”

5. Given the nature of the charges faced by the applicant, and the life sentence imposed; the applicant's explanation, viewed against the backdrop of his incarceration and the practical difficulties inherent in prison conditions including

communicating with the courts, presents a plausible and reasonable account for the delay.

6. I am satisfied that sufficient reason has been shown to warrant the exercise of this Court's discretion in favour of the applicant. The application is accordingly allowed.

7. I direct that the applicant shall file his notice of appeal within sixty (60) days from the date of this ruling.

Dated and delivered at Nakuru this 21st day of October, 2025.

M.WARSAME

JUDICIARY

.....
JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

REPUBLIC OF KENYA