



**Onyancha v Republic (Criminal Application E009 of 2025)
[2025] KECA 1657 (KLR) (15 October 2025) (Ruling)**

Neutral citation: [2025] KECA 1657 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CRIMINAL APPLICATION E009 OF 2025
LK KIMARU, JA
OCTOBER 15, 2025**

BETWEEN

DOUGLAS ONYANCHA APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for extension of time from the Ruling of the High Court of Kenya at Kisumu (R.E. Aburili, J) dated 7th October, 2024 in HCCR No 27 of 2015)

RULING

1. Douglas Onyancha, the applicant herein, was tried and convicted by the High Court sitting at Kisumu of the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The applicant was sentenced to suffer death. The Judgment was delivered in 2017. The applicant did not appeal against the decision. However, he filed an application before the High Court seeking to have the sentence that was imposed upon him revised. The main reason that the applicant advanced to have his sentence revised was that his co-accused before the trial court made a similar application and the sentence of death was set aside and substituted by defined term sentence.
2. The application was disallowed in a Ruling delivered on 7th October, 2024 hence the present application seeking leave to appeal out of time against the said decision.
3. The present application was filed on 22nd January, 2025, three months after the impugned Ruling was delivered by the High Court. The applicant has a case when he complains that he was given a different treatment to his co-accused when it came to the question of revision of his sentence.
4. Unless there is a cogent reason justifying differential treatment, similar set of facts and circumstances should attract similar outcomes. For that reason, this Court will allow the applicant's application since the application is unopposed.



5. The applicant is granted leave to lodge the notice of appeal out of time. The said notice of appeal shall be filed and served within Fourteen (14) days.
6. it is so ordered.

DATED AND DELIVERED AT KISUMU THIS 15TH DAY OF OCTOBER, 2025.

L. KIMARU

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JUDGE OF APPEAL

I certify that this is a true copy of original.

DEPUTY REGISTRAR

