



REPUBLIC OF KENYA



KENYA LAW
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**Kieusi v Republic (Criminal Application E104 of 2024)
[2025] KECA 1889 (KLR) (7 November 2025) (Ruling)**

Neutral citation: [2025] KECA 1889 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CRIMINAL APPLICATION E104 OF 2024
LK KIMARU, JA
NOVEMBER 7, 2025**

BETWEEN

MARWA MAGIGE KIEUSI APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for extension of time from the Judgment of the High Court of Kenya at Migori (R. Wendoh, J) dated 24th February, 2022 in HCCRA No. 6 of 2020)

RULING

1. Marwa Magige Kieusi, the applicant herein, was tried and convicted of Murder contrary to section 203 as read with section 204 of the Penal Code. He was sentenced to serve thirty-five (35) years imprisonment on 24th February, 2022. The applicant is aggrieved by the decision and wishes to appeal to this Court against the same. He made the present application essentially under Rule 4 of the Court of Appeal Rules seeking the exercise of this Court's discretion to be granted extension of time to lodge the appeal out of time. The applicant explains the reason for the delay in lodging the appeal in time to be on account of financial constraints to instruct an advocate on the part of his relatives from whom he depended to lodge the appeal on his behalf. He was also not supplied with the duly certified copies of the proceedings and Judgment by the trial Court in time to enable him lodge the appeal. The applicant pleaded with the Court to exercise its discretion in his favour and allow him to lodge the appeal out of time. The application is supported by the annexed affidavit of the applicant.
2. The application is unopposed. Under Rule 4 of the Court of Appeal Rules, this Court has unfettered discretion to allow any steps limited by the Rules to be taken outside the prescribed period. In the present application, it was evident to the Court that the applicant is indigent. He was unable to lodge the appeal in time due to financial constraints which made him unable to instruct an advocate in time. The fact that he is incarcerated prevented him from vigorously pursuing the typing and certification of the proceedings and Judgment from the trial court. This would have been possible if he had his



freedom. The applicant was sentenced to serve a substantial term of imprisonment. It is only fair and just that he be allowed to ventilate his appeal to this Court.

3. In the circumstances therefore, the application has merit and is hereby allowed. The applicant is granted extension of time to lodge the appeal out of time. The notice of appeal shall be filed and served within fourteen (14) days of today's date.
4. It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 7TH DAY OF NOVEMBER, 2025.

L. KIMARU

JUDGE OF APPEAL

I certify that this is a true copy of original.

DEPUTY REGISTRAR.

