



**Njenga v Republic (Criminal Application E062 of 2025)
[2025] KECA 1899 (KLR) (12 November 2025) (Ruling)**

Neutral citation: [2025] KECA 1899 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E062 OF 2025
JM MATIVO, JA
NOVEMBER 12, 2025**

BETWEEN

JOHN KIGO NJENGA APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for extension of time to appeal against the judgment of the High Court of Kenya at Naivasha (G.Nzioka, J.) dated 13th April, 2023 in CRA No. E033 of 2021)

RULING

1. The applicant, John Kigo Njenga was charged with the offence of defilement contrary to section 8 (1) as read with 8 (4) of the *Sexual Offences Act* and upon being convicted, he was sentenced to serve 20 years imprisonment. His appeal to the High Court at Naivasha being CRA No. E033 of 2021 was dismissed on both conviction and sentence on 13th April 2023. Although aggrieved, he failed to lodge his notice of appeal within the statutory-stipulated period of 14 days. In his application dated 5th May 2025, the applicant seeks extension of time to appeal against the High Court decision. In his supporting affidavit dated 28th April 2025, the applicant contends that he had intentions to appeal but he was never supplied with a copy of judgment on time. Therefore, he seeks extension of time to file his appeal out of time.
2. In response to the application vide written submissions dated 3rd November 2025, Mr. Omutelema Senior Assistant Director of Public Prosecution has amiably conceded to the leave sought pointing to the lengthy sentence of 20 years.
3. Rule 4 of the Court of Appeal Rules gives the Court unfettered discretion extend the time limited by these Rules, or by any decision of the Court or of a Superior Court for the doing of any act authorized or required by these Rules, whether before or after the doing of the act on such terms as it thinks just.



The Supreme Court in *Nicholas Kiptoo Arap Korir Salat v IEBC and 7 Others* [2015] eKLR stated that:

“It is incumbent upon the applicant to explain the reasons for delay in making the application for extension and whether there are any extenuating circumstances that can enable the Court to exercise its discretion in favour of the applicant.”

4. I have considered the reasons advanced by the applicant as set out in the motion and the supporting affidavit. Although the application is conceded, the applicant must still satisfy the principles that have been laid down in *Nicholas Kiptoo Arap Korir Salat vs. IEBC and 7 Others*[supra]. The explanation by the applicant that he was not furnished with a copy of judgment is not plausible, since the applicant has not demonstrated that he requested for the judgment and his request was ignored and/or declined. However, despite the delay of two years, I’m inclined to exercise my discretion in the applicant’s favour. This will afford the applicant the chance to exercise his right of appeal to this Court which could be his last appeal in our court hierarchy. Accordingly, the application dated 5th May 2025 is hereby allowed. The applicant shall file his appeal within 45 days from the date of this ruling.

Orders accordingly.

DATED AND DELIVERED AT NAKURU THIS 12TH DAY OF NOVEMBER 2025.

J. MATIVO

JUDGE OF APPEAL

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

Signed.

DEPUTY REGISTRAR.

