



**Wamboko v Republic (Criminal Application E014 of 2024)
[2025] KECA 1996 (KLR) (19 November 2025) (Ruling)**

Neutral citation: [2025] KECA 1996 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CRIMINAL APPLICATION E014 OF 2024
MS ASIKE-MAKHANDIA, JA
NOVEMBER 19, 2025**

BETWEEN

DORCAS MISANYA WAMBOKO APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for leave to file an appeal out of time)

RULING

1. Dorcas Misanya Wamboko, “the applicant”, was tried, convicted and sentenced to life imprisonment for the offence of murder in Bungoma High Court Criminal Case No.21 of 2012 in a judgment delivered on 18th August 2016.
2. The applicant wishes to appeal that judgment in this Court on both conviction and sentence. However, she cannot do so as of right since under the Rules of this Court, the time for doing so is long past. It is for this reason that she has initiated this application dated 6th November, 2023 seeking leave of this Court to appeal out of time as well as a pauper. She advances the argument that she could not appeal on time because she was not furnished with the judgment of the trial court in time. That, she is also incarcerated and therefore unable to raise funds for the preparation of the record nor can members of his family assist as they are indigent.
3. The application was duly served on the respondent and in response it stated that it opposes it on grounds that the delay is inordinate and has not been sufficiently explained.
4. The application was canvassed by way of written submissions only, and without appearance of counsel or parties. There is no need to rehash those submissions as they merely reiterated and expounded on grounds and affidavits in support of and in opposition to the application.
5. Having carefully considered the application in its entirety, I would say this!



The power to extend time is a discretionary one, which is only exercise- able by the Court upon a satisfactory reason being given. It is trite law that the entire period of delay has to be stated and reasonably explained to the satisfaction of the court.

The Court is also obliged to consider whether the intended appeal is arguable and has chances of success, hence not frivolous.

6. The Supreme Court of Kenya pronounced itself on the question of extension of time in the case of Andrew Kiplagat Chemaringo v Paul Kipkorir Kibet [2018] eKLR, and stated as follows:

“...the law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for delay is the key that unlocks the court’s flow of discretionary favour. There has to be valid and clear reasons, upon which discretion can be favourably exercisable.”

7. In this case, the decision sought to be appealed was delivered on 18th August 2016. This Application was filed on 6th November 2023. This is a period in excess of about seven years. Out rightly a duration of seven years is inordinate. It will require a plausible explanation to warrant an extension. The applicant in this instance avers that she was incarcerated and was therefore not in a position to communicate with the outside world for assistance. Secondly, because of poverty, his family could not raise funds to instruct counsel on his behalf to process and file the appeal on his behalf. All these assertions have not controverted by the respondent. They must therefore be true.
8. Having considered the above reasons for the delay, that she is representing herself, more importantly, given the nature of the sentence being served, to wit, life imprisonment and that no prejudice will be suffered by the respondent, I would allow the application and direct the applicant to process and file his appeal within the next forty- five (45) days from the date of this ruling.

DATED AND DELIVERED AT KISUMU THIS 19TH DAY OF NOVEMBER, 2025.

ASIKE-MAKHANDIA

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JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR

