



REPUBLIC OF KENYA



KENYA LAW
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**Cini v Republic (Criminal Application E050 of 2025)
[2025] KECA 2093 (KLR) (28 November 2025) (Ruling)**

Neutral citation: [2025] KECA 2093 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E050 OF 2025
S OLE KANTAI, JA
NOVEMBER 28, 2025**

BETWEEN

ELIUD MUNYI CINI APPLICANT

AND

REPUBLIC RESPONDENT

*(An application for leave to appeal out of time appeal against the
Judgment of the High court of Kenya at Kerugoya (L.W. Gitari, J.)
delivered on 27th June, 2019 in H.C. CRA. No. 39 of 2016)*

RULING

1. By the undated Motion forwarded by Officer in Charge, Meru Maximum Prison the applicant, Eliud Munyi Cini prays that time for appealing be extended. He says in his supporting affidavit that he was convicted and sentenced to life imprisonment for the offence of defilement contrary to section 8(1) as read with section 8(2) of the [Sexual Offences Act](#); that his appeal to the High Court at Kerugoya was dismissed on 27th June, 2019; that he lodged his appeal at Kerugoya Prisons' documentation office but that he was then transferred to another prison; that he thought that he had an appeal number but later learnt that he did not; that his intended appeal has high chances of success and he, a 64 year old man, should be allowed to appeal. He has attached a copy of the judgment in High Court of Kenya at Kerugoya Criminal Appeal No. 39 of 2016 and written submissions.
2. I have not seen a replying affidavit or written submissions by the respondent who was served with a hearing notice on 11th November, 2025 at odppnyeri nyeri@odpp.go.ke where the parties were notified of the hearing date and required to do certain things within stated timelines.



3. The principles that apply in applications for extension of time were well set out in the case of Leo Sila Mutiso vs. Rose Hellen Wangari Mwangi Civil Application No. NAI 255 of 1997 as follows: -

“It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well stated that in general the matters which this Court takes into account in deciding whether to grant an extension of time, are 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.”

4. The applicant says that after his first appeal was dismissed he lodged documents with prison authorities and waited for an appeal number to be availed but that he was not allocated an appeal number; that he was transferred from one prison to another making it difficult for him to follow up on the appeal process. He prays for time extension to enable him file a second appeal. I think that there is a reasonable explanation for delay where the applicant, a convict, says that he presented documents to prison authorities and believed that he had lodged an appeal but that it was not done. Although considerable time has passed since the first appeal was dismissed I do not consider that passage of time to be inordinate in the circumstances.
5. I note that the applicant was given a life sentence and I should give him a chance to try his chances in a second appeal.
6. I allow the Motion. Let Notice of Appeal be lodged within ten (10) days and Record of Appeal twenty-one (21) days thereafter.

DATED AND DELIVERED AT NYERI THIS 28TH DAY OF NOVEMBER, 2025.

S. ole KANTAI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR.

