



**Wangechi v Republic (Criminal Application E091 of 2024)  
[2025] KECA 2240 (KLR) (19 December 2025) (Ruling)**

Neutral citation: [2025] KECA 2240 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CRIMINAL APPLICATION E091 OF 2024  
A ALI-ARONI, JA  
DECEMBER 19, 2025**

**BETWEEN**

**PAUL MUHORO WANGECHI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an appeal from the Judgment of the High Court of Kenya  
at Nyeri delivered on 21st July 2023 in HCCRA No. E032 of 2022)*

**RULING**

1. In an undated notice of motion said to be brought under rule 40 of the Court of Appeal Rules 2022 (“the Rules”), the above named applicant seeks for review of the mandatory sentence meted out on him.
2. The application is predicated on the annexed an undated affidavit of the applicant where he states that he was charged and convicted for the offence of defilement contrary to section 8(1)(3) of the *Sexual Offences Act* and sentenced to 15 years imprisonment upon full trial. He filed a first appeal at Nyeri High Court vide Cr. Appeal No. E032 of 2022 which was dismissed.
3. The respondent has not filed a response. Neither party has filed submissions.
4. I have considered the application and the affidavit in support. The applicant seems to be aggrieved by the judgement of the first appellate court. If aggrieved and has the intention to file an appeal, since judgement in the High Court was delivered on 21<sup>st</sup> July 2023, he is first required to seek to file the appeal out of time. If the application is allowed, he will then have to file his grounds of appeal. There are mandatory steps to be taken by an intended appellant.



Rule 61(1) & (8) of the Court's Rule states as follows; -

1. A person who desires to appeal to the Court shall give notice in writing, which shall be lodged in six copies with the registrar of the superior Court at the place where the decision against which it is desired to appeal was given, within fourteen days after the date of that decision, and the notice of appeal shall institute the appeal.
- (8) A notice of appeal shall be substantially in Form B as set out in the First Schedule and shall be signed by or on behalf of the appellant.

Rule 64 provides; -

Within sixty days after a notice of appeal has been lodged, the registrar of the superior court shall prepare the record of appeal: Provided that where the record of appeal is not prepared within the stipulated period, the deputy registrar of the superior shall prepare a certificate of delay.

Rule 66 provides for further steps to be undertaken by the intended appellant as follows:

1. The appellant shall, within fourteen days after service on him or her of the record of appeal, lodge a memorandum of appeal, in five copies, with the Registrar or with the deputy registrar at the place where the appeal is to be heard:  
  
Provided that where the memorandum of appeal is lodged with the deputy registrar at the place where the appeal is to be heard, the appellant shall lodge two additional copies with the Registrar within twenty-one days after service on him or her of the record of appeal.
  2. The memorandum of appeal lodged under sub-rule (1) shall concisely set forth and under consecutively numbered distinct heads, without argument or narrative, the grounds of objection to the decision appealed against, specifying, in the case of a first appeal, the points of law or fact and, in the case of any other appeal, the points of law, which are alleged to have been wrongly decided.
  3. The Registrar or the deputy registrar, as the case may be, shall, as soon as practicable, cause a copy of the memorandum of appeal under sub-rule (1) to be served on the respondent.
  4. A memorandum of appeal under sub-rule (1) shall be substantially in Form C as set out in the First Schedule and be signed by or on behalf of the appellant.
  5. If no memorandum of appeal is lodged within the prescribed time, the Court may dismiss the appeal or may direct that it be set down for hearing:  
  
Provided that where an appeal is dismissed, the appellant, if he or she can show sufficient cause, may apply to the Court to restore it for hearing.
5. In the circumstance, the applicant is required to initiate his appeal in accordance with rule 61(1) and follow the appeal through as prescribed by law. None of the known ways or steps to be taken on an appeal has been followed. The application is therefore dismissed.

**DATED AND DELIVERED AT NYERI THIS 19<sup>TH</sup> DAY OF DECEMBER, 2025.**

**ALI-ARONI**

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**JUDGE OF APPEAL**

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

Signed

**DEPUTY REGISTRAR**

