

**IN THE COURT OF  
APPEAL AT  
KISUMU**

**(CORAM: KIMARU, JA (IN CHAMBERS))**

**CRIMINAL APPLICATION NO. E055 OF**

**2025 BETWEEN**

**TIMOTHY KIPTANUI KITAI Alias CHEPARAKACH.....APPLICANT**

**AND**

**REPUBLIC**

.....

**RESPONDENT**

(Being an application for extension of time to appeal out of time from the Judgment of the High Court of Kenya at Bungoma (M.S. Shariff, J) dated 27<sup>th</sup> June, 2025

**in**

**HCCRA No. E086 of 2021)**

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**RULING**

1. The applicant was convicted of the offence of Robbery with Violence contrary to **section 296(2)** of the **Penal Code** by the Bungoma Chief Magistrate's Court (**CR. Case No. 746 of 2018**). He was sentenced to serve twenty-five (25) years imprisonment. His appeal to the High Court against conviction was dismissed. However, the custodial sentence that was imposed on him was enhanced to forty (40) years imprisonment. The applicant was aggrieved by the High Court's verdict which was delivered on 27<sup>th</sup> June, 2025. He wishes to

appeal against the said decision to this Court. He has filed the present application seeking to be granted leave to file appeal out of time. The applicant explained that he

was prevented from lodging the appeal in time due to the fact that he was not availed the certified typed copies of the proceedings and Judgment in time. He pleads with the Court to exercise its discretion in his favour and grant the application.

2. The Application is not opposed by the respondent. **Rule 4** of the **Court of Appeal Rules** grants this Court unfettered discretion to extend time for any steps circumscribed by the Rules to be done outside the prescribed time. In the present application, the applicant has given satisfactory explanation for his failure to lodge the appeal in time. This Court will exercise its discretion in his favour.
3. The applicant is granted leave to appeal out of time. The applicant shall file and serve the notice of appeal within **fourteen (14) days** of today's date.

**Dated and delivered at Kisumu this 28<sup>th</sup> day of January, 2026.**

**L. KIMARU**

.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR.**