



**Kaiuki v Republic (Criminal Application E063 of 2025)
[2026] KECA 38 (KLR) (14 January 2026) (Ruling)**

Neutral citation: [2026] KECA 38 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E063 OF 2025
A ALI-ARONI, JA
JANUARY 14, 2026**

BETWEEN

KENNEDY WACHIRA KARIUKI APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for extension of time to appeal against the decision of the High Court of Kenya at Nyeri (M. Kizito, J.) delivered on 20th May, 2025 in HCCRA No. E073 of 2024)

RULING

1. Before the Court is an application by way of a notice of motion seeking an extension of time to appeal, brought under rule 40 of the Court of Appeal Rules ('the Rules'), I believe meant to be brought under rule 4 of the Rules.
2. The application is predicated on the grounds on the face of the application and the applicant's supporting affidavit stating that the applicant was charged with the offence of grievous harm contrary to section 234 of the Penal Code in a criminal case, No. E326 of 2020 at Nyeri Law Court; he was convicted and sentenced to 20 years' imprisonment; being dissatisfied with the trial court's decision, he appealed to the High Court at Nyeri vide High Court Criminal Appeal No. E073 of 2024, which was dismissed on 20th May 2025; he was not supplied with the judgment on time; is unrepresented; and now prays for leave to file his appeal out of time; the appeal has a high chance of success.
3. The respondent has not filed a response.
4. Neither party has filed submissions.
5. I have considered the application and the affidavit in support. The issue for determination is whether the applicant is deserving of an extension of time to file his appeal.



Rule 4 of the Court of Appeal Rules states that; -

The Court may, on such terms as may be just, by order, 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, and a reference in these Rules to any such time shall be construed as a reference to that time as extended.

6. In *Ngige vs. Republic* (Criminal Application E013 of 2024) [2024] KECA 848 (KLR), the Court held:

“The application is unopposed.

Rule 4 of the Court of Appeal Rules governs the extension of time. The Rule allows this Court to exercise discretion to extend the time limited by the Rules for the doing of any act authorized or required by the Rules.

I have considered the application and find the delay explained as having been caused by slow administrative action to supply the proceedings of the superior court in time for the filing of the appeal before expiry of time limited to do so. In the premises, I find merit in this application.”

7. The applicant has mounted a plausible explanation for why there has been a delay, which, as this Court has stated before, paves the way for the Court to consider other issues, including the length of delay and the likelihood of a successful appeal. Further, the grounds of appeal, as summarised in the applicant’s affidavit, do not look idle.

8. In the end, I allow the application. The notice of appeal and the record of appeal be filed within the next 14 days of this ruling.

DATED AND DELIVERED AT NYERI THIS 14TH DAY OF JANUARY, 2026.

ALI-ARONI

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

