

**IN THE COURT OF  
APPEAL AT  
KISUMU**

**(CORAM: KIMARU, JA (IN CHAMBERS))  
CRIMINAL APPLICATION NO. E048 OF  
2025 BETWEEN**

**JUMA SHEM.....APPLICANT**

**AND**

**REPUBLIC**

**RESPONDENT**

(Being an application for extension of time to lodge the notice of appeal out of time from the Judgment of the High Court of Kenya at Bungoma (E. Ngugi, J) Dated 29<sup>th</sup> September, 2021

**in**

**HCCRA No. 11 of  
2015)**

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**RULING**

1. **Juma Shem**, the applicant herein, was convicted of gang rape contrary to **section 10** of the **Sexual Offences Act** by the Kimilili Magistrate's Court in **Criminal Case No. 1295 of 2009**. He was sentence to life imprisonment. His appeal to the High Court vide **HCCRA No. 11 of 2015** at Bungoma was unsuccessful. He wishes to file a second, and perhaps a last appeal to this Court. He has made the present application to be granted extension of time to file appeal out

of time. The applicant explains that he was prevented from lodging the

appeal in time due to the fact that he was not availed certified typed copies of the proceedings and Judgment from the High Court. By the time he obtained the said proceedings, the time by which he was required to have filed the notice of appeal had lapsed. The applicant pleads with the Court to exercise its discretion in his favour so as to enable him exercise his right of appeal to this Court.

2. The respondent is not opposed to the application. **Rule 4** of the **Court of Appeal Rules** grants this Court unfettered discretion to extend time for any steps to be taken within the period stipulated under the Rules. The applicant has given the reason for delay in lodging the appeal in time to be failure by the Superior Court to supply him with the certified copies of the proceedings and Judgment in time to enable him lodge the notice of appeal in time. The reason given is excusable noting that the applicant is acting in person and is currently incarcerated and cannot physically access the Court to follow up the typing and certification of the proceedings.

3. In the premises therefore, the application has merit and is

hereby allowed. The applicant is hereby granted extension  
of

time to lodge the notice of appeal out of time. The notice of appeal shall be filed and served within fourteen **(14) days** of today's date.

**Dated and delivered at Kisumu this 27<sup>th</sup> day of January, 2026.**

**L. KIMARU**

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

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

**DEPUTY REGISTRAR.**

