

**IN THE COURT OF APPEAL
AT ELDORET**

(CORAM: MATIVO, JA (IN CHAMBERS))

CRIMINAL APPLICATION NO. ELD E025 OF

2025 BETWEEN

DAVID KEMBOI KOSGEI.....APPLICANT

AND

REPUBLIC.....RESPONDENT

(Being an application for leave to appeal out of time against the judgment of the High Court of Kenya at Eldoret (H.

Omondi, J.) dated 17th March 2021

in

CRA No. 14 of 2019).

RULING

1. David Kemboi Kosgei (the applicant), has in his application dated 24th May 2024 moved this Court seeking extension of time to file his appeal to this Court against the judgment dated 17th March 2024 rendered by Omondi J. (as she then was) in Eldoret HCCRA No. 14 of 2019.
2. The applicant states that he was convicted of the offence of rape by the magistrates' court and his appeal to the High Court was unsuccessful. Even though he desired to appeal, he was not supplied with a copy of the judgment and the

trial court

proceedings, hence the delay. In his submissions dated 10th February 2025, the respondent's counsel humbly conceded to the application.

3. I have considered the reason offered in support of the application. The reason in support of the application is plausible and satisfactory. I am inclined to exercise my discretion in the applicant's favour. I order that the notice of appeal and the memorandum of appeal filed herein be admitted out of time and the same be deemed as properly filed. The applicant is directed to file the record of appeal within 60 days from today.

Dated and delivered at Eldoret this 19th February, 2026.

J. MATIVO

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

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

Signed.

DEPUTY REGISTRAR