



REPUBLIC OF KENYA



KENYA LAW
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**Kerich v Republic (Criminal Application E092 of 2025)
[2026] KECA 222 (KLR) (12 February 2026) (Ruling)**

Neutral citation: [2026] KECA 222 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E092 OF 2025
JM MATIVO, JA
FEBRUARY 12, 2026**

BETWEEN

WILLY KIPKOECH KERICH APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for leave to appeal out of time from the judgment of the High Court of Kenya at Kericho (A. N. Ongeri, J.) dated 6th May 2022 in CRA No. 27 of 2015)

RULING

1. The application before the Court is dated 19th November, 2025. The main prayer is for extension of time to appeal to the Court of Appeal against the judgment issued in HCCRA No. 27 of 2015.
2. The applicant, Willy Kipkoech Kerich was arraigned before the Chief Magistrates Court at Kericho in Criminal Case No. 4 of 2012 for the offence of defilement contrary to section 8 (1) as read together with section 8 (2) of the *Sexual Offences Act*. After a full trial, he was convicted and sentenced to life imprisonment. His appeal to the High Court was dismissed on both conviction and sentence. The applicant failed to lodge his notice of appeal within the statutory-stipulated time of fourteen (14) days.
3. In his undated supporting affidavit, he contends that the delay to file his notice of appeal was occasioned by the non-receipt of a copy of the Judgment by the High Court and the failure by his relatives to instruct an advocate to represent him.
4. In response to the application vide written submissions dated 17th November 2025, Mr. Omutelema Senior Assistant Director of Public Prosecution has amiably conceded to the leave application pointing to the lengthy sentence of life imprisonment.
5. Rule 4 of the Court of Appeal Rules gives the Court unfettered discretion to “...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 ...,” on such terms as it thinks just. I shall adopt the findings of the Supreme Court in *Andrew Kiplagat Chemaringo vs. Paul Kipkorir Kibet* [2018] eKLR, the Court ruled that;

“the law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for delay is the key that unlocks the court’s flow of discretionary favour. There has to be valid and clear reasons, upon which discretion can be favourably exercisable.”

6. I have considered the reasons advanced by the applicant as set out in the motion and the supporting affidavit. Although the application is conceded, the applicant must still satisfy the principles that have been laid down in *Andrew Kiplagat Chemaringo vs. Paul Kipkorir Kibet* [supra].
7. I have considered the reasons advanced by the applicant for the three years delay as set out in the motion and the supporting affidavit. I am satisfied by the reasons advanced by the applicant for his failure to lodge the appeal on time. More importantly, since the applicant has been sentenced to life imprisonment, it is only just and fair in the circumstances, to allow the applicant to exercise his right of second appeal to this Court. In the premises, the application dated 19th November 2025 is allowed. I direct the applicant to file his notice of appeal within the next 14 days and the memorandum of appeal and the record of appeal within 60 days from today.

Orders accordingly.

DATED AND DELIVERED AT NAKURU THIS 12TH DAY OF FEBRUARY, 2026.

J. MATIVO

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JUDGE OF APPEAL

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

Signed.

DEPUTY REGISTRAR

