



**Marwa v Republic (Criminal Application E098 of 2024)  
[2026] KECA 241 (KLR) (11 February 2026) (Ruling)**

Neutral citation: [2026] KECA 241 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CRIMINAL APPLICATION E098 OF 2024  
LK KIMARU, JA  
FEBRUARY 11, 2026**

**BETWEEN**

**MAKONGE WANGWI MARWA ..... 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 Migori (R. Wendoh, J) dated 24th February, 2020 in HCCRC No. 6 of 2020)*

**RULING**

1. The applicant, Makonge Wangwi Marwa alias Wangwi Masseli was convicted of murder contrary to section 203 as read with section 204 of the Penal Code. He was sentenced to serve thirty-five (35) years imprisonment on 24<sup>th</sup> February, 2020. The applicant desires to appeal against the said conviction and sentence to this Court. He has filed the present application seeking to be granted extension of time to file appeal out of time. The applicant explains that he was not able to lodge the appeal in time due to the fact that he was not availed typed and certified copies of the proceedings and Judgment in time by the trial Court. The applicant states that he has a good appeal which may likely succeed. He pleads with the Court to give him a chance to ventilate his appeal before this Court. The application is supported by the annexed affidavit of the applicant.
2. The respondent is not opposed to the application. This Court's jurisdiction to extend time is provided under Rule 4 of the Court of Appeal Rules. The jurisdiction is discretionary. In the present application, the applicant explained the reason for delay in lodging the appeal in time to be on account of failure on the part of the trial Court to avail him certified typed copies of the proceedings and Judgment for appeal purposes. This Court takes judicial notice that the period in question was during Covid-19 lockdown where the Court's services, including typing of proceedings, were significantly adversely affected. The Court is convinced of the reason given by the applicant for delay in lodging the appeal in time. The reason given is excusable. The respondent does not oppose the application.



3. The application has merit. It is hereby allowed. The applicant is granted extension of time to file the 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 11<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**L. KIMARU**

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**JUDGE OF APPEAL**

I certify that this is a true copy of original.

**DEPUTY REGISTRAR.**

