

**IN THE COURT OF
APPEAL AT KISUMU
(CORAM: KIMARU, JA (IN CHAMBERS))**

**CRIMINAL APPLICATION NO. E062 OF
2025 BETWEEN**

**REUBEN MOGOA MONGERI.....APPLICANT
AND REPUBLIC
.....
RESPONDENT**

(Being an application for extension of time to appeal out of time
from the Judgment of Kenya at Kisii (T. Odera, J))

in

HCCRA. E060 of 2024)

RULING

1. The applicant, **Reuben Mogoia Mongeri**, was convicted by the trial court of the offence of defilement contrary to **section 8(1)** as read with **section 8(2)** of the **Sexual Offences Act**. He was sentenced to serve **ten (10) years imprisonment**. His appeal to the High Court was dismissed. However, the custodial sentence that was imposed by the trial Court was enhanced to **twenty (20) years imprisonment**. The applicant was aggrieved by

this decision and desires to appeal against the same to this Court.

He has made the present application seeking to be granted extension of time to appeal out of time. The applicant states that he was prevented from lodging the appeal in time due to financial challenge of his family. They could not procure funds in time to enable them instruct an advocate to file the appeal on his behalf. The application is supported by the annexed affidavit of the applicant.

2. The respondent does not oppose the application. **Victorine Kitoto**, swore a replying affidavit on behalf of the respondent indicating their intention not to oppose the application. **Rule 4** of the **Court of Appeal Rules** grants this Court unfettered discretion to determine whether or not to grant an application for extension of time. In the present application, this Court is satisfied by the reasons given by the applicant for the delay in lodging the appeal in time. This Court formed the view that the applicant should be allowed to ventilate his right of second appeal to this Court.
3. The application has merit and is hereby allowed. The applicant is granted leave to lodge 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 10th day of February,2026.

L. KIMARU

.....
JUDGE OF APPEAL

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

DEPUTY REGISTRAR.

