



**Ochieng v Republic (Criminal Application E001 of 2026)  
[2026] KECA 225 (KLR) (10 February 2026) (Ruling)**

Neutral citation: [2026] KECA 225 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CRIMINAL APPLICATION E001 OF 2026  
LK KIMARU, JA  
FEBRUARY 10, 2026**

**BETWEEN**

**VINCENT ONYANGO OCHIENG ..... 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 Siaya (R. Ougo, J) dated 8th August, 2019 in HCCRA. No. 63 of 2019)*

**RULING**

1. The applicant, Vincent Onyango Ochieng, was convicted of the offence of robbery with violence contrary to section 296(2) of the Penal Code by Siaya Chief Magistrate Court. He was sentenced to serve fifteen (15) years imprisonment. His appeal to the High Court was unsuccessful. Later, the applicant moved the High Court by an application to have period that he was in remand custody pending his conviction to be taken into account when determining the custodial sentence. The application was disallowed hence provoking this application.
2. The applicant craves to be granted leave to appeal out of time.  
The sole ground of the intended appeal is that the period that he was in remand custody was not taken into account when the term of the custodial sentence that he was ordered to serve was determined. The application is supported by the annexed affidavit of the applicant.
3. The respondent did not oppose the application. This Court under Rule 4 of the Court of Appeal Rules is granted unfettered discretion to consider whether or not to grant an application seeking extension of time to have any steps delineated by the rules to be done outside the prescribed time. This Court is persuaded by the reason advanced by the applicant for seeking to be granted extension of time to appeal to this Court. He wishes this Court to declare the period he is required to serve in prison noting that



he was in remand custody prior to his conviction and sentence by the trial court. Since the application is not opposed, the same is allowed.

4. The applicant is hereby granted leave to lodge 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 10<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**

