

**IN THE COURT OF APPEAL
AT ELDORET**

(CORAM: MATIVO, JA (IN CHAMBERS))

CRIMINAL APPLICATION NO. ELD E011 OF

2024 BETWEEN

PETER SANDE WANYONYI.....APPLICANT

AND

REPUBLIC.....RESPONDENT

(Being an application from the judgment of the High Court of Kenya at Bungoma (R. Ouko, J.) dated 3rd April, 2023

in

Criminal Misc. Appl. No. 39 of 2019).

RULING

1. The applicant in his application dated 8th May 2024 prays for orders that his appealed be filed out of time. The grounds in support of the application are essentially grounds of appeal. They are also replicated in his memorandum of appeal. The respondent's counsel in his submissions dated 10th February 2026 has conceded to the appeal.
2. Extending time for filing appeals is a judicial discretion exercised to prevent injustice when procedural deadlines

are missed due to valid reasons. Key factors include the length of

the delay, potential prejudice to the respondent and whether the intended appeal has arguable merit. Courts balance the need for timely resolution against the right to a fair hearing, often requiring a satisfactory explanation for the delay period. The delay of slightly over two years, though not explained, I am inclined to exercise my discretion in favour of the applicant.

3. Accordingly, the application dated 8th May 2024 is hereby allowed and I order that the memorandum of appeal and the notice of appeal filed herein be deemed to be properly filed/admitted out of time. 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

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**. JUDGE OF
APPEAL**

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

DEPUTY REGISTRAR