



**Wetoto v Republic (Criminal Application E002 of 2026)  
[2026] KECA 226 (KLR) (10 February 2026) (Ruling)**

Neutral citation: [2026] KECA 226 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CRIMINAL APPLICATION E002 OF 2026  
LK KIMARU, JA  
FEBRUARY 10, 2026**

**BETWEEN**

**JOHN SIFUNA WETOTO ..... APPLICANT**

**AND**

**REPUBLIC ..... REPUBLIC**

*(Being an application for extension of time to lodge the notice of appeal out of time from the Judgment of the High Court of Kenya at Kakamega (Bett, J) dated 19th December, 2025 in HCCRA. No. E093 of 2022)*

**RULING**

1. The applicant, John Sifuna Wetoto, was convicted 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 life imprisonment. His appeal to the High Court was unsuccessful. The Judgment was delivered on 19<sup>th</sup> December, 2025. The applicant desires to appeal to this Court in exercise of his right of second appeal. He has filed the present application essentially under Rule 4 of the Court of Appeal Rules seeking to be granted extension of time to appeal out of time. The applicant gave the reason for the delay in lodging the notice of appeal in time to be failure by the Court to avail him a copy of the Judgment in time to enable him exercise his right of appeal. The applicant pleads with the Court to extend time so as to enable him to exercise his right of appeal. The application is supported by the annexed affidavit of the applicant.
2. The respondent does not oppose the applicant's application.

This Court has unfettered discretion to grant or refuse an application for extension of time to have anything done outside the period prescribed by the Rules. In the present application, the applicant has given the reason for delay in lodging the notice of appeal in time to be failure by the Court to avail him a copy of the Judgment in time to enable him file the appeal. The application was filed on 8<sup>th</sup>



January, 2026, a couple of days after expiry of the period the applicant was required to lodge the notice of appeal. The delay is not inordinate. It is excusable. The application has merit and is allowed.

3. The applicant is granted extension of time to file the notice of appeal out of time. The said 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.**

