



**Chebuya v Republic (Criminal Application E035 of 2025)  
[2026] KECA 315 (KLR) (19 February 2026) (Ruling)**

Neutral citation: [2026] KECA 315 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CRIMINAL APPLICATION E035 OF 2025  
LK KIMARU, JA  
FEBRUARY 19, 2026**

**BETWEEN**

**JOSEPH WAFULA CHEBUYA ..... 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 Bungoma (F.Tuiyott,  
J) dated 25<sup>th</sup> November, 2014 in HCCRA No. 94 of 2013)*

**RULING**

1. Joseph Wafula Chebuya, the applicant herein was convicted of the offence of robbery with violence contrary to section 296(2) of the Penal Code. He was sentenced to death by the trial court (Bungoma Chief Magistrate's Court). His appeal to the High Court was dismissed on 25<sup>th</sup> November, 2014. The death sentence was later commuted to life imprisonment. The applicant filed the present application seeking to be granted extension of time to appeal out of time. The applicant explains the reason for delay in lodging the appeal in time was due to the fact that he was not able to obtain proceedings from the High Court to enable him mount the appeal in time. He pleads with the Court to give him a chance to ventilate his appeal before this Court. The respondent is not opposed to the application.
2. Rule 4 of the Court of Appeal Rules grants this Court jurisdiction to extend time for any steps to be taken outside the period prescribed by the Rules. In the present application, the applicant has explained the reason for delay in filing the appeal in time. He states that he could not file the appeal in time because he was not able to obtain the duly typed and certified copies of the proceedings from the High Court in time to enable him mount the appeal. The applicant, acting in person, and incarcerated, could not follow up the typing of the proceedings to be hastened at the High Court registry.



3. This Court is persuaded by the reason advanced by the applicant for failure to lodge the appeal in time. The delay in the typing and certifying of the proceedings and Judgment was beyond his control. The applicant shall be given a chance to ventilate his appeal before this Court.
4. The application has merit. It is hereby allowed. The applicant is hereby granted leave to appeal out of time. The applicant shall file and serve the notice of appeal within fourteen (14) days of today's date.

**DATED AND DELIVERED AT KISUMU THIS 19<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**L. KIMARU**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of original.

**DEPUTY REGISTRAR.**

