

**IN THE COURT OF  
APPEAL AT KISUMU  
(CORAM: KIMARU, JA (IN CHAMBERS))  
CRIMINAL APPLICATION NO. E053 OF**

**2024 BETWEEN**

**PHILIPH OMBUOGA MOSE.....APPLICANT  
AND REPUBLIC**

.....  
**RESPONDENT**

(Being an application for extension of time from the Judgment of the High Court of Kenya at Kisii (R. E. Ougo, J) dated 3<sup>rd</sup> March, 2020

in

**HCCR No. 1 of 2019)**

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**RULING**

1. **Philip Ombuoga Mose**, the applicant herein was convicted and sentenced of the charge of murder contrary to **section 203** as read with **section 204** of the **Penal Code**. The Judgment was delivered on 3<sup>rd</sup> March, 2020. The applicant wishes to challenge the said conviction and sentence before this Court. He has filed the present application seeking to be granted leave to appeal out of time. The applicant states that he was prevented from lodging the appeal in time due to the fact that he was not supplied with certified typed copies of the proceedings by the High Court to enable him mount the appeal in time. He pleads with the Court to exercise its discretion in

his favour and grant him the chance to ventilate his appeal before this Court.

2. The application is not opposed. **Ms. Victorine Kitoto**, Prosecuting Counsel, swore a replying affidavit in which she deponed that she did not oppose the application in the interests of justice. **Rule 4** of this **Court's 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 given satisfactory explanation for delay in filing the appeal in time. He was unable to obtain the proceedings from the trial court to enable him lodge the appeal in time. Being in prison, he could not follow up the typing of proceedings by High Court registry. This Court is persuaded that the applicant made a case for this Court's exercise of its discretion in his favour.

**3.** The application has merit. It is hereby allowed. The applicant is granted leave to 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 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.**