

**IN THE COURT OF APPEAL
AT KISUMU**

(CORAM: ASIKE-MAKHANDIA, J.A. (IN CHAMBERS))

CRIMINAL APPLICATION NO. E015 OF 2026

BETWEEN

THOMAS OWUOR OLUOCH.....APPLICANT

AND

REPUBLIC.....RESPONDENT

(Being an application seeking leave for extension of time to file and serve Notice of Appeal out of time from the judgment of the High Court of Kenya at Siaya, (Aburili, J.) dated 14th February, 2022

in

HCCRC No. E008 OF 2020)

RULING

[1]The Applicant was charged with the offence of murder contrary to **Section 203** as read with **204** of the Penal Code. He was after full trial convicted and sentenced to life imprisonment on 14th February, 2022.

[2] Aggrieved, the applicant intends to appeal to this Court. However, he cannot do so automatically as the time of doing so has long elapsed, hence this application seeking leave for extension of time to file and serve his Notice of Appeal out of time. He avers that

the delay was due to failure to receive the certified trial court's records and judgment in time.

[3] He further avers that he was relying on a friend to hire an advocate for him but all was in vain further delaying the filling of the Appeal. Served with the application, the respondent reacted by conceding to the application. The concession notwithstanding, I have to consider the application on its merits.

[4] Under **Rule 4** of the Court of Appeal Rules, the power to extend time is a discretionary one, which is only exercise-able by the Court upon a satisfactory reason being given. It is trite law that the entire period of delay has to be stated and reasonably explained to the satisfaction of the court. In considering whether to extend time, the Court is obliged to also consider whether the intended appeal is arguable and has chances of success, hence not frivolous.

[5] In this application, the decision sought to be appealed was delivered on 14th February, 2022. This is a period of about 4 years. Outrightly a duration of 4 years is inordinate. It will require a plausible explanation to warrant an extension.

[6] Be that as it may, I have considered the reason of delay, being that the applicant is incarcerated, representing himself

and that he did not receive a feed back in time in reference to
the Notice of

Appeal he had previously filed in Court, and more importantly given the nature of the sentence being served, to wit, life imprisonment for conviction of murder, and that the application is not opposed, I would allow the application.

[7] Consequently, the applicant is granted leave to file appeal out of time. He should do so within the next **thirty (30)** days from the date hereof.

Dated and delivered at Kisumu this 11th day of March, 2026.

ASIKE-MAKHANDIA

.....
JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR