

**IN THE COURT OF
APPEAL AT KISUMU**

(CORAM: OMONDI, JA (IN CHAMBERS))

CRIMINAL APPLICATION NO. E003 OF

2026 BETWEEN

SOLOMON OLUOCH OWINO.....APPLICANT

AND

REPUBLIC.....RESPONDENT

*(Being an application against the judgment of the High Court of
Kenya at Kisumu (Chemitei, J.) dated 28th January 2013*

in

HCCRA No. 165 of 2010)

RULING

1. Solomon Oluoch Owino, the applicant herein, was charged with the offence of defilement contrary to section 8(l) as read with Section 8 (2) of the Sexual Offences Act; and upon trial, he was convicted and sentence. He was aggrieved by the outcome, and contested the same in Kisumu HCCRA No. 165 of 2010, which was heard and dismissed By a Notice of Motion dated 9th January 2026, the applicant seeks for the extension of time within which to file his appeal against the decision.

2. He explains that he could not appeal on time because he relied on my relatives who promised to hire a lawyer for me but could not do so due to financial constraints; and when he sent the Notice of Appeal to court, it was not acted upon.
3. In opposing the application, the respondent through written submissions filed by Munyolo Omusebe-Oduor, learned prosecution counsel, it is pointed out that the applicant has taken up an inordinate amount of time being more than 15 years, which time has not been explained or properly accounted for to warrant this Court exercising its discretion.
4. It is further contended that the Applicant has not raised any substantive point of law that may warrant this court exercising its discretion to extend time to determine such a question of law.
5. The respondent also submits that there is no Notice of Appeal, or a Memorandum of Appeal filed within the 14-day period required by law; and there is no legitimate notice of appeal on record, hence the applicant cannot ride on this application. This Court is urged to dismiss the application
6. This Court is allowed to exercise its unfettered discretion as provided under rule 4 of the Court of Appeal Rules which

provides as follows:

The court may, on such terms as it thinks just, by order extend the time limited by these Rules, or by any decision of the Court or of a superior court, for the doing of any act authorized or required by these Rules, whether before or after the doing of the act, and a reference in these Rules to any such time shall be construed as a reference to that time as extended.

7. Rule 4 of the Court of Appeal Rules does not provide for factors the court ought to consider in an application for extension of time but courts have devised appropriate in this matter, the applicant does not disclose the nature of sentence that he is contesting on the date that the contested decision was given. It therefore becomes very difficult to even assess whether he has an arguable appeal as regards sentence.

The applicant has failed to persuade the Court to exercise its discretion favourably; consequently, I hold that the application lacks merit and is dismissed.

Dated and delivered at Kisumu this 27th day of March, 2026.

H. A. OMONDI

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JUDGE OF APPEAL

I certify that this is

*a true copy of the
original.*

DEPUTY REGISTRAR