



**Wamae v Republic (Criminal Application E012 of 2026)
[2026] KECA 672 (KLR) (25 March 2026) (Ruling)**

Neutral citation: [2026] KECA 672 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E012 OF 2026**

**S OLE KANTAI, JA
MARCH 25, 2026**

BETWEEN

IBRAHIM NDOGE WAMAE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Ibrahim Ndoge Wamae has approached this Court by Motion brought under various provisions of law praying for extension of time and leave to file an appeal out of time against the judgment delivered by the High Court at Nyeri (Odero, J.) on 21st February, 2025. He asks to be treated as pauper because “... he being indigent and wholly unable to afford filing fees or legal representation...”; that the amended Memorandum of Appeal be deemed as duly filed and that I make such other orders as I may find just and expedient in the circumstances. He says in grounds in support of the application and in his supporting affidavit that he is serving a 45-year imprisonment term at Nyeri Maximum Prison; he has no income, no legal representation and no means to pay court fees or instruct counsel. Further that the delay was not deliberate as he did not receive copy of High Court judgment on time; he is a layman; that the intended appeal raises weighty arguable issues. He questions the constitutionality of the sentence awarded. Attached to the application is judgment of the High Court of Kenya at Nyeri.
2. I have seen the respondent’s written submissions where the respondent states that it does not oppose the application. The principles that apply in an application of trial nature were well laid in *Leo Sila Mutiso vs Rose Hellen Wangari Mwangi*, Civil Application Nai. 251 of 1997 which states as follows:

“It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well stated that in general the matters which this Court takes into account in deciding whether to grant an extension of time, are first, the length of the delay, secondly, the reason for the delay, thirdly (possibly) the chances of the



appeal succeeding if the application is granted, and fourthly, the degree of prejudice to the respondent if the application is granted."

3. The applicant is a convict serving a long term of imprisonment. The sentence by the High Court was given on 21st February, 2025. I note that the application is dated 19th February, 2026, about 1 year after sentence. The applicant says that he was not given a copy of the judgment of the High Court on time to allow him to file an appeal on time; that he has no money to pay for legal representation. I find these explanations reasonable. There has not been inordinate delay in the circumstances which the applicant finds himself. The ground he has raised as proposed grounds of appeal are reasonable and he should have an opportunity to argue them on appeal. I also find that the respondent cannot be prejudiced at all by grant of leave and that is why it has not opposed the application.
4. I hereby extend time for filing appeal. Let the applicant lodge notice of appeal within fourteen (14) days of today and record of appeal within twenty-one (21) days thereafter. I hereby waive court filing fees as the applicant is a pauper.

DATED AND DELIVERED AT NYERI THIS 25TH DAY OF MARCH, 2026

S. OLE KANTAI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

