



**Mutembei v Republic (Criminal Application E096 of 2025)
[2026] KECA 834 (KLR) (30 April 2026) (Ruling)**

Neutral citation: [2026] KECA 834 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E096 OF 2025
JM MATIVO, JA
APRIL 30, 2026**

BETWEEN

PETER MBAABU MUTEMBEI APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for extension of time from the conviction and sentence of the High Court of Kenya at Nakuru (M. T. Matheka, J.) dated 19th May 2022 in CRA No. 12 of 2020)

RULING

1. By an application dated 9th December 2025, Peter Mbaabu Mutembei (the applicant) prays for extension of time to appeal out of time against the judgment delivered by Matheka, J. in Nakuru High Court Criminal Appeal No. 12 of 2020. The grounds in support of the application are that: (a) he was convicted for the offence of robbery with violence; and, (b) he relied on relatives to lodge his appeal but they did not do so due to financial constraints.
2. In response to the application, the respondent filed submissions dated 29th April 2026 agreeing that the delay is not inordinate and conceding to the application.
3. Rule 4 of the Court of Appeal Rules, 2022, grants this Court immense discretion to enlarge the time to file his appeal. The only requirement is that the discretion must be exercised judicially not capriciously. The guiding principle in Rule 4 is the interests of justice. The Supreme Court in Andrew Kiplagat Chemaringo vs. Paul Kipkorir Kibet [2018] eKLR, and stated as follows:

“the law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for delay is the key that unlocks the Court’s flow of discretionary favour. There has to be valid and clear reasons upon which discretion can be favourably exercisable.”



4. Guided by the above principles, I am inclined to exercise my discretion in his favour. I direct the applicant to file his notice of appeal within the next 14 days and the memorandum of appeal and the record of appeal within 45 days from today. Orders accordingly.

DATED AND DELIVERED AT NAKURU THIS 30TH DAY OF APRIL, 2026.

J. MATIVO

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed.

DEPUTY REGISTRAR_

