IN THE COURT OF APPEAL
AT NAKURU

CORAM: MATIVO, JA (IN CHAMBERS)

CRIMINAL APPLICATION NO. NAK. E003 OF 2026 BETWEEN

MARY WAMBUI WANJIRU.....APPLICANT
AND

REPUBLIC.....RESPONDENT

(Being an application for extension of time from the conviction and sentence of the High Court of Kenya at Nakuru ***(Chemitei, J.)*** *dated 10th March 2022*

in

Criminal Case No. 41 of 2019).

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RULING

1. Mary Wambui Wanjiru (the applicant) by an application dated 18th November 2025, brought under Rule 4 of the Court of Appeal Rules, 2022 prays for extension of time to appeal out of time against the judgment delivered in Nakuru High Court Criminal Appeal No. 41 of 2019. The grounds in support of the application are that: (a) she was convicted for the offence of robbery with violence contrary to Section 296 of the Penal Code in PMCC CR Case No. 2167 of 2018; (b) her appeal to the High Court was dismissed; (c) she was not supplied with the proceedings, hence her inability to file the appeal.

2. In response to the application, the respondent filed submissions dated 27th April 2026 contending that the applicant has not demonstrated the extent of diligence she has exercised in filing her notice of appeal. Nevertheless, the respondent states that if the Court is inclined to allow the application. It should impose strict timelines.

3. Rule 4 of the Court of Appeal Rules, 2022, vests this Court with immense discretion to enlarge the time to file an appeal. The only fetter is that the discretion must be exercised judicially. 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

.....
.... JUDGE OF APPEAL

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

DEPUTY REGISTRAR