

**IN THE COURT OF
APPEAL AT ELDORET**

(CORAM: L. M. NDOLO, J.A.)

CRIMINAL APPLICATION NO. E003 OF
2025

BETWEEN

JOSEPHAT INGONGA.....APPLICANT

AND

REPUBLIC.....RESPONDENT

*(Being an application for extension of time to file an appeal against
the Judgment of the High Court of Kenya at Eldoret (F. Azangalala, J.)
delivered on 20th January 2011*

in

HCCRA No. 97 of 2009)

RULING

1. By his application dated 28th August 2025, the applicant seeks leave to file an appeal against the judgment of the High Court at Eldoret, out of time.
2. The applicant states that he was charged with and convicted of the offence of defilement, contrary to **section 8(1)** as read with **section 8(2)** of the Sexual Offences Act. He was sentenced to life imprisonment and his appeal to the High Court was dismissed on 20th January 2011.
3. The application was heard on 30th April 2026, with the

applicant appearing virtually from Naivasha Maximum Prison
and learned

Senior Prosecution Counsel, Mr. Okaka appearing for the respondent.

4. The respondent is opposed to the application. In its written submissions dated 29th April 2026, the respondent cites this Court's decision in **Andrew Kiplagat Chemaringo v Paul Kipkorir Kibet [2018] eKLR** where it was held that in an application for leave to file an appeal out of time, a plausible and satisfactory explanation for the delay is the key that unlocks the exercise of discretion, in favour of the applicant.
5. In **Mukunza v Republic [2026] KECA 293 (KLR)** it was affirmed that although the discretion to extent time under **rule 4** of the Court of Appeal Rules is wide, the Court must take into account the length of and the reason for the delay.
6. In his application, the applicant does not disclose any reason for the delay, which spans over a period of close to fifteen (15) years. In the circumstances, the Court has no basis upon which it could possibly exercise discretion in favour of the applicant.
7. The application dated 28th August 2025, is therefore dismissed with no order for costs.

Dated and delivered at Eldoret this 8th day of May, 2026.

L.M. NDOLO

.....
JUDGE OF APPEAL

*I certify that this is
a true copy of the*

original.

Signed

DEPUTY REGISTRAR