



**Jedidah v Republic (Criminal Application E214 of 2024)  
[2025] KECA 425 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KECA 425 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E214 OF 2024  
MA WARSAME, JA  
FEBRUARY 28, 2025**

**BETWEEN**

**DAVID NJUGUNA JEDIDAH ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for extension of time to file a notice of appeal against the Judgment of the High Court at Nakuru (Nyaga, J.) dated 13th June, 2024 in HCCRA No. 029 OF 2024)*

**RULING**

1. The applicant, David Njuguna has filed an application dated 5<sup>th</sup> September 2024, seeking extension of time to file a notice of appeal against the judgment of the High Court dated 13<sup>th</sup> June 2024.
2. The applicant's advocate, Maina Jane deposes in an affidavit dated 5<sup>th</sup> September 2024, that the applicant was charged with defilement contrary to section 8(1) as read with section 8(3) of [Sexual Offences Act](#) and sentenced to 20 years in Nakuru CMR No. MCCHSO No. E115 OF 2021, that the applicant appealed against the conviction and sentence in the High Court and Nyaga J, who was seized with the matter upheld the conviction, set aside the sentence and reduced it to 15 years imprisonment.
3. Counsel deposed that the applicant was intent on filing an appeal against the decision of the High Court and was duly supplied with copies of the proceedings. However the applicant's mother was unable to raise funds to pay his former advocate and the appeal was not filed, when counsel took on the matter pro bono, she was involved in an accident which caused further delay.
4. Lastly, it is deposed that the applicant was under the impression that an appeal had been filed and that the appeal has high chances of success as per the grounds set out in the draft Memorandum of appeal annexed to the application.



5. The court has settled on the matters which should be taken into consideration when the court was called upon to exercise its discretion under Rule 4. Those matters, as was stated in the case of Leo Sila Mutiso vs Helen Wangari, (NRB) Civil Application No. 251 of 1997, include:  
  
“ ... 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.”
6. On its part, the respondent did not oppose the application and submitted that the sentence imposed was lengthy and required consideration by the court.
7. I have considered the application, the supporting affidavit, the draft memorandum of appeal and the appellant’s submissions. It is evident that there has been a delay of about two months in filing the appeal against the judgment of the High Court. The applicant’s position is that the delay was occasioned by his mother’s inability to pay the legal fees demanded by his former advocate and the indisposition of his current advocate after being involved in an accident.
8. Even though, there is no proof submitted by the applicant’s Advocate of their alleged accident, the High Court judgment reveals that the applicant was represented by a different advocate before the High Court. I therefore find that the explanation that the applicant assumed that the appeal had been lodged by his former advocate plausible and satisfactory. In the premises the delay has been explained adequately. I have also perused the Draft Memorandum of Appeal and find that it raises grounds for consideration by the Court.
9. Consequently, the application is allowed. Given that the proceedings are ready, I direct the appeal to be filed within 21 days.

**DATED AND DELIVERED AT NAKURU THIS 28<sup>TH</sup> DAY OF FEBRUARY, 2025.**

**M. WARSAME**

.....

**JUDGE OF APPEAL**

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

Signed

**DEPUTY REGISTRAR**

