



REPUBLIC OF KENYA



**Kipkoech v Republic (Criminal Application E212 of 2024)
[2025] KECA 426 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KECA 426 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E212 OF 2024
MA WARSAME, JA
FEBRUARY 28, 2025**

BETWEEN

DENNIS KIPKOECH APPLICANT

AND

REPUBLIC RESPONDENT

(An application for extension of time to file an appeal against the Judgment of the High Court at Nakuru (Mulwa, J.) dated 18th July, 2020 in HCCRA No. 70 OF 2016)

RULING

1. The applicant, Dennis Kipkoech has filed a notice of motion dated 24th October 2024 seeking leave to appeal out of time against the judgment issued in HCCRA No. 70 of 2016, on 18th July, 2020 where he was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code, convicted and sentenced to 30 years.
2. Although aggrieved, the applicant failed to lodge his notice of appeal within the statutory stipulated time of fourteen (14) days. His present application invokes Rule 4 of the Court of Appeal Rules to enlarge the time to file his appeal.
3. The applicant's case as stated on the face of the application and his supporting affidavit dated 2nd October 2024, is that the delay was occasioned by the failure to be supplied with the High Court's Judgment on time. He seeks to appeal the judgment on the grounds that; his defence was not considered, that the elements of the offence were not proved and that the sentence was harsh and unlawful.
4. I have considered the application, the supporting affidavit, the and the grounds of appeal stated. It is evident that there has been a delay of approximately 4 years in filing the appeal against the judgment of the High Court. The applicant's position is that the delay was occasioned by delay in furnishing him with the judgment of the High Court.



5. The Supreme Court of Kenya pronounced itself in the question of extension of time in the case of *Andrew Kiplagat Chemaringo v. 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.”

6. The delay in this matter is long and inordinate. The applicant has not presented any proof before this court that he attempted even a single attempt to file his appeal or procure the requisite proceedings in the four long years ensuing the judgment of the High Court. In my view the proffered reason is an afterthought and I accordingly dismiss the application.

DATED AND DELIVERED AT NAKURU THIS 28TH DAY OF FEBRUARY, 2025.

M. WARSAME

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

