



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mwangi v Republic (Criminal Application E005 of 2025)  
[2025] KECA 353 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KECA 353 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CRIMINAL APPLICATION E005 OF 2025  
S OLE KANTAI, JA  
FEBRUARY 28, 2025  
[IN CHAMBERS]**

**BETWEEN**

**CHARLES MUCHUNA MWANGI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for extension of time for Leave to appeal out of time from the Judgment of the High Court at Muranga (C.W. Gitari, J.) delivered on 20th November, 2024 in HC Criminal Revision No. E151 of 2024)*

**RULING**

1. We do not have provision for “Chamber Summons” in our rules but I note that the applicant, Charles Muchuna Mwangi is a convict at Muranga Main prison who may not know about compliance with procedural rules of the Court. I will not take any technical approach to the application.
2. The applicant prays that I grant him leave to appeal out of time as a pauper, that his attached “Memorandum ground of appeal” be considered as his “petition of appeal and be processed forthwith” and that I make any other order I may think fit. He says in supporting affidavit that he was the accused person in original Criminal Case No. E303 of 2024 at the High Court of Kenya at Muranga; that  

“... I did not appeal to the court of appeal within the stipulated time owing to the fact that my relatives promised to hire an advocate to represent and file an appeal on my behalf which I am now informed that they were unable owing to the high legal fees asked by the counsel.”
3. I have seen hearing notice dated 12<sup>th</sup> February, 2025 at 1.00 p.m. to [nyeri@odpp.go.ke](mailto:nyeri@odpp.go.ke) [murangamainprison@gmail.com](mailto:murangamainprison@gmail.com). I have not seen replying affidavit from the respondent.



- 4. There are no written submissions by either side despite being required to file written submissions in the hearing notice.
- 5. The principles that apply in an application for leave to extend time were well set out in the case of *Leo Sila Mutiso v Rose Hellen Wangari Mwangi* [1999] 2 EA 231 as follows:

“It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well stated that in general the matters which this Court takes into account in deciding whether to grant an extension of time, are 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. The applicant has not given me much material on which to consider the application but again, he says he is in prison, a pauper. I note that the judgment he intends to appeal was delivered by Githua, J. on 20<sup>th</sup> November, 2024. His application is undated but bears a “2024” year. I do not think it was brought to court late, it was within about a month after judgment. I also note the explanation he gives - that his relatives promised to engage a lawyer for him but they did not do so because the lawyers asked for a lot of money, money the family did not have.
- 7. I have seen draft Memorandum of Appeal where the applicant raises what I consider to be reasonable grounds of appeal.
- 8. I am prepared to exercise my discretion in favour of the applicant. I allow the Motion. Let record of appeal be filed within thirty (30) days of today. Court fees for filing appeal hereby waived, the appeal to be received from the appellant as a pauper in terms of our rules.

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

**S. OLE KANTAI**

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

I certify that this is a true copy of the original

*signed*

**DEPUTY REGISTRAR**

