



REPUBLIC OF KENYA



**KENYA LAW**  
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**Siele v Republic (Criminal Application E234 of 2024)  
[2025] KECA 423 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KECA 423 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E234 OF 2024  
PM GACHOKA, JA  
FEBRUARY 28, 2025**

**BETWEEN**

**STANLEY KIPKOECH SIELE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for leave to appeal out of time against the conviction  
and sentence of the High Court of Kenya at Kericho (Musinga,  
J. delivered on 5th December 2007 in HCCRC No. 6 of 2004)*

**RULING**

1. Before me is the Notice of Motion dated 11<sup>th</sup> November 2024. The applicant seeks leave of this Court to appeal out of time against the conviction and sentence of the Kericho High Court in HCCRC No. 6 of 2004. The applicant was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. He was convicted of the offence and sentenced to death. His sentence was later commuted by the president to life imprisonment.
2. The applicant is intent on appealing against that decision. His Notice of Motion is supported by his affidavit, memorandum of appeal and notice of appeal all undated. His justification is that he faced challenges with the e-filing portal and could not therefore file his appeal on time. Furthermore, he was not supplied with the judgment of the trial court. The applicant lamented that the sentence meted out was harsh and excessive without considering his defence. Finally, he decried that he was not the assailant.
3. In its written submissions dated 3<sup>rd</sup> January 2025, the state, through Senior Assistant Director of Public Prosecutions Mr. Omutelema argued that though the sentence of death was weighty, the application ought to be disallowed for the reason that the delay of 17 years was not explained.



4. Under rule 4 of the Court of Appeal Rules 2022, this Court has discretion to extend time limited by those Rules. In determining an application of this nature, this Court is alive to the principles set out by this Court in Wasike vs. Swala [1984] KLR 591 where this Court stated:

“As Rule 4 now provides that the Court may extend the time or such terms as it thinks just, an applicant must now show, in descending scale of importance, the following factors:

- a. That there is merit in his appeal.
  - b. That the extension of time to institute and/or file the appeal will not cause undue prejudice to the respondent; and
  - c. That the delay has not been inordinate.”
5. Has the applicant met the above threshold? What is considerably apparent is that the applicant has brought this application a whopping 17 years later. He explained that he was unable to file his appeal on time for the reason that the e-filing portal was unfamiliar and he was not furnished with the judgment. Those reasons advanced are not satisfactory. The e-filing system was only introduced in 2020 following the COVID-19 pandemic. He therefore had no such challenge in the antecedent years. Furthermore, the applicant did not demonstrate what difficulty he faced in obtaining the judgment. He did not exposit the efforts he took in obtaining that judgment and did not even allege that he sought help from the prison authorities. It is inconceivable how an applicant can sleep on his right to appeal for 17 years and fail to give plausible reasons for such a lengthy delay. The reasons given by the applicant do not persuade me.
6. In my view, this application is an afterthought and the applicant is not deserving of the exercise of discretion. The explanations preferred were not satisfactory and do not justify that delay. Accordingly, the present application is dismissed in its entirety.

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

**M. GACHOKA C.Arb, FCI Arb.**

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**JUDGE OF APPEAL**

I certify that this is a True copy of the original

Signed

**DEPUTY REGISTRAR**

