



REPUBLIC OF KENYA



KENYA LAW
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**Sena v Republic (Criminal Application E227 of 2024)
[2025] KECA 247 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KECA 247 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E227 OF 2024
JM MATIVO, JA
FEBRUARY 20, 2025**

BETWEEN

KULANGASH OLE SENA APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for leave to file an appeal out of time from the Judgment of the High Court of Kenya at Narok (J. M. Bwonwonga, J.) dated 29th August, 2018 in CRA No. 1 of 2018)

RULING

1. The application before me is dated 5th November, 2024. The main prayer is for leave to appeal out of time against the judgment issued in HCCRA No. 1 of 2018.
2. The applicant, Kulangash Ole Sena was arraigned before the High Court in Criminal Case No. 1 of 2018 at Narok and charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. He was convicted and sentenced to life imprisonment on 17th July, 2018.
3. Although aggrieved, he failed to lodge his notice of appeal within the statutory-stipulated time of 14 days. The applicant contends that he was not able to appeal on time because he was sent to Narok Prison to serve his sentence and that the notice of appeal he sent to the Narok High Court was never acted upon. Therefore, he could not appeal on time. His present application invokes Rule 4 of the Court of Appeal Rules to enlarge the time to file his appeal.
4. The respondent has not complied with the direction issued by the Deputy Registrar on 24th December, 2024. Therefore, the instant application is not opposed.
5. I have considered the application, the supporting affidavit sworn on 5th November, 2024. It is evident that there has been a delay of approximately 6 years and 4 months in filing his appeal against the judgment of the High Court.



6. The Supreme Court of Kenya pronounced itself in the question of extension of time in the case of Andrew Kiplagat Chemaringo vs. 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.”

7. I have considered that the applicant is imprisoned for life. The reason in support of the application is plausible. I am inclined to exercise my discretion in his favour. I allow the application and direct the applicant to file his notice of appeal within the next 14 days and the memorandum of appeal and the record of appeal within 45 days from today.

DATED AND DELIVERED AT NAKURU THIS 20TH DAY OF FEBRUARY, 2025.

J. MATIVO

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JUDGE OF APPEAL

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

Signed.

DEPUTY REGISTRAR.

