



**Bushuru v Republic (Criminal Application E148 of 2024)
[2025] KECA 613 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KECA 613 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CRIMINAL APPLICATION E148 OF 2024
LK KIMARU, JA
MARCH 28, 2025**

BETWEEN

ZABLON MISIKO BUSHURU APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an application for extension of time to appeal out of time
from the Judgment of the High Court of Kenya at Kakamega (W.
Musyoka, J. Dated 6th October, 2021 in HC CRA. Case No. 62 of 2013)*

RULING

1. Zablon Misiko Bushuru, the applicant herein, was charged before High Court of Kenya at Kakamega with murder contrary to section 203 as read with section 204 of the *Penal Code*. He pleaded not guilty to the charge. After full trial, he was convicted and sentenced to serve thirty five (35) years in prison. The sentence was meted out on 6th October 2021.
2. The applicant now wishes to exercise his right of appeal to this Court. He has moved this Court in a notice of motion essentially brought under Rules 4, and 43 of the Court of Appeal Rules, 2022. He states that he was prevented from lodging the appeal in time on account that he was not able to raise the requisite court fees to mount the appeal. The application is not opposed by the respondent. The respondent was persuaded that the delay was sufficiently explained and further that the delay was not inordinate in the circumstances.
3. Rule 4 of the Court's Rules grants this Court unfettered discretion to extend time for any step intended to be done within the period specified in the Rules. In the present application, it is clear to this Court that the reason given by the applicant for the delay in lodging the appeal in time is excusable. The applicant should be given the opportunity to exercise his constitutional right of appeal to this Court.
4. In the premises therefore, the applicant's application is allowed.



The applicant is granted leave to appeal out of time. The notice of appeal shall be filed and served within fourteen (14) days from today's date.

5. It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 28TH DAY OF MARCH, 2025.

L. KIMARU

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JUDGE OF APPEAL

I certify that this is a true copy of original.

DEPUTY REGISTRAR

