



REPUBLIC OF KENYA



KENYA LAW
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**Muriuki v Republic (Criminal Application E072 of 2025)
[2025] KECA 560 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KECA 560 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E072 OF 2025**

S OLE KANTAI, JA

MARCH 28, 2025

[IN CHAMBERS]

BETWEEN

GLADYS NYAWIRA MURIUKI APPELLANT

AND

REPUBLIC RESPONDENT

*(An application for extension of time to file a Record of Appeal
against the Judgment of the High Court at Nyeri (L. Njuguna, J.)
delivered on 21st July, 2023 in HC Criminal Appeal No. 49 of 2022)*

RULING

1. The applicant Gladys Nyawira Muriuki was charged with the offence of defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act*. She was convicted on her own plea of guilty and sentenced to life imprisonment. Her appeal to the High Court of Kenya at Nyeri was dismissed on conviction but the appeal on sentence succeeded where Njuguna, J. reduced the sentence to 30 years imprisonment in the judgment delivered on 21st July, 2023.
2. In the Motion said to be brought under section 349 *Criminal Procedure Code* and rule 64 of the *Court of Appeal Rules*, 2010 the applicant prays that her memorandum of appeal attached to the application be considered as her petition of appeal. She says in the supporting affidavit in material part that she was not able to appeal on time because she was not supplied with a copy of the court record; that her relatives promised to engage a lawyer to follow up on an appeal but that they did not do so; that she makes the application to be allowed to appeal as a pauper.
3. The Motion is undated but notice of appeal is dated 19th July, 2023, an unusual date considering that judgment of the High Court was delivered on 21st July, 2023.



I have not seen any response to the application.

I have noted the hearing notice dated 7th March, 2025 at 12.41p.m. to nyeri@odpp.go.ke and nyerimaximumprison@gmail.com where parties were notified of the hearing date and required to file written submissions. I have not seen any written submissions by either side.

4. The principles that apply in an application for extension of time were well laid out in the case of *Fakir Mohamed v Joseph Mugambi & 2 Others* in Civil Application No. 33 of 2004 as follows:

“The exercise of this court’s discretion under Rule 4 has followed a well beaten path since the stricture ‘sufficient reason’ was removed by amendment in 1985. As it is unfettered, there is no limit to the number of factors the court would consider so long as they are relevant. The period of delay, the reason for the delay, (possibly) the chances of the appeal succeeding if application is granted, the degree of prejudice to the respondent if the application is granted, the effect of the delay on public administration, the importance of compliance with time limits, the resources of the parties, whether the matter raises issues of public importance – are all relevant but not exhaustive factors: See *Mutiso v Mwangi* Civil Application No. Nai. 255 of 1997 (ur), *Mwangi v Kenya Airways Limited* [2003] KLR 486, *Major Joseph Mwereri Igweta v Mulika M’Ethare and Attorney General*, Civil Application No. Nai 8/2000 (ur) and *Murai v Wainana* (No. 4) [1982] KLR 38.”

5. The applicant who has been unrepresented all along says that she was not provided with the record of the High Court on time to enable her appeal. She says that her relatives promised to engage a lawyer for her but that they did not do so; she appeals to be allowed to appeal as a pauper. She pleaded guilty to the charge of defilement before the trial magistrate and I doubt in the circumstances that the intended appeal has any chances of success. Having said that I do not want to shut her out of the appeal process - let her have her day in court.
6. I allow the Motion. Let a notice of appeal be lodged within fourteen (14) days of today and an appeal be filed within twenty one (21) days, thereafter. The court registry to accept the appeal from the appellant as a pauper without requiring any court fees.

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

S. ole KANTAI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

signed

DEPUTY REGISTRAR

