



**Kipkemoi v Republic (Criminal Application E245 of 2024)
[2025] KECA 842 (KLR) (9 May 2025) (Ruling)**

Neutral citation: [2025] KECA 842 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E245 OF 2024**

WK KORIR, JA

MAY 9, 2025

[IN CHAMBERS]

BETWEEN

GEOFFREY KIPKEMOI APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for leave to file an appeal out of time against the judgment of the High Court of Kenya at Kericho (M. Muya, J.) dated 28th March 2017 in HCCRA No. 36 of 2017)

RULING

1. Geoffrey Kipkemoi, the applicant herein, was sentenced to life imprisonment upon being convicted for the offence of defilement contrary to section 8(1) as read with 8(2) of the *Sexual Offences Act*. His appeal before the High Court at Kericho was dismissed on 28th March 2017. In a notice of motion dated 19th December 2024, he seeks leave to file an appeal against the judgment of the High Court out of time. The application, which is supported by an affidavit sworn by himself, is premised on the grounds that he could not secure the judgment and copies of the proceedings to enable him to appeal on time. In the affidavit, he has also enumerated various grounds which he intends to urge in his appeal and asserts that the intended appeal is arguable with high chances of success.
2. When the application came up for hearing, the applicant had not filed his submissions.
3. The respondent did not file a replying affidavit. However, in the submissions dated 19th February 2025, Mr. Omutelema, Senior Assistant DPP, urges that even though the delay is inordinate and unexplained, the application is not opposed due to the length of the sentence.
4. The parameters for considering an application under rule 4 of the Court of Appeal Rules are well settled. An applicant must declare the whole period of delay and sufficiently explain it. Additionally, as



was appreciated by this Court (J. Mohammed, JA) in *Andrew Kiplagat Chemaringo v. Paul Kipkorir Kibet* [2018] eKLR, even though there is no definitive maximum or minimum period of delay, it is only a satisfactory explanation that will unlock the doors shut by lapse of time.

5. The delay herein is approximately 7 years and 9 months. Even though the respondent's counsel is of the view that leave to appeal out of time should be granted because of the length of the sentence meted upon the applicant, the fact remains that the delay is inordinate and the reasons given for the delay unconvincing. Seven years is quite a long period of time to overlook, considering that the applicant has not even attested to the steps he took in an attempt to acquire the proceedings and judgment during that period. In my view, this application is an afterthought on the applicant's part. I therefore decline the invitation to extend the time for filing an appeal. Consequently, the applicant's notice of motion dated 19th December 2024 is found to be without merit and dismissed.

DATED AND DELIVERED AT NAKURU THIS 9TH DAY OF MAY 2025.

W. KORIR

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JUDGE OF APPEAL

I certify that this is a True copy of the original

DEPUTY REGISTRAR

