



REPUBLIC OF KENYA



KENYA LAW
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**Kinyua v Republic (Criminal Application E015 of 2025)
[2025] KECA 1377 (KLR) (25 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1377 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E015 OF 2025
WK KORIR, JA
JULY 25, 2025**

BETWEEN

SOLOMON NG'ANG'A KINYUA 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 Murang'a (S. Chirchir, J.) dated 29th March 2023 in HCCRA No. 36, 35 & 38 of 2019 (Consolidated))

RULING

1. Solomon Ng'ang'a Kinyua, the applicant, is seeking leave of the Court to file an appeal against the judgment of the High Court (S. Chirchir, J.) delivered on 29th March 2023, wherein his conviction on a charge of robbery with violence contrary to section 296(2) of the [Penal Code](#) and a sentence of life imprisonment were sustained. He asserts that he could not lodge his appeal on time because he was not supplied with the High Court judgment on time. He also deposes that he is a pauper and should be exempted from paying court fees. He reiterates the grounds in his supporting affidavit sworn on 24th February 2025.
2. When this matter came up for hearing on 16th July 2025, the respondents had not filed any response to the application or submissions.
3. Be that as it may, the principles for the exercise of the discretion under rule 4 of the Court of Appeal Rules are well established. In simple terms, an applicant must declare the whole period of delay and sufficiently explain the delay.
4. The period of delay is approximately 1 year and 11 months. According to the applicant, the delay was occasioned by failure to procure the judgment of the High Court. There is no indication on the part



of the applicant whether he has acquired the record. He has also not demonstrated any effort he has put in place to secure the same. Be that as it may, as was held in *Cheruiyot vs. Republic* [2025] KECA 829 (KLR), the fact that the applicant was in custody ought to count for something when considering the reasonableness of the delay. Additionally, the period of delay should be considered in light of the offence and the sentence being served by an inmate. Considering the foregoing, I find the delay of 1 year and 11 months not inordinate.

5. Consequently, I allow the application as prayed. Leave is hereby granted to the applicant to lodge his notice of appeal within 14 days from the date of the delivery of this ruling.

DATED AND DELIVERED AT NYERI THIS 25TH DAY OF JULY, 2025.

W. KORIR

..... **JUDGE OF APPEAL**

I certify that this is a True copy of the original

Signed

DEPUTY REGISTRAR

