



REPUBLIC OF KENYA



**Ekudongoi v Republic (Criminal Application E031 of 2025)  
[2025] KECA 1180 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1180 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E031 OF 2025**

**JM MATIVO, JA**

**JULY 1, 2025**

**BETWEEN**

**SAMUEL AMANA EKUDONGOI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for extension of time to file a notice of appeal, against the judgment of the High Court of Kenya at Nyahururu (R. Wendoh, J.) dated 10th April, 2018 in CRA No. 095 OF 2017)*

**RULING**

1. The application before the Court is undated. The applicant seeks extension of time to appeal out of time against the conviction and sentence in Nyahururu Criminal Case No. 451 of 2015.
2. The applicant, Samuel Amana Ekudongoi was charged before the Chief Magistrate's Court at Nyahururu in Criminal Case No. 451 of 2015 with the offence of being in possession of wildlife trophies without a permit contrary to section 95 of the *Wildlife (Conservation and Management) Act* 2013 and sentenced to pay a fine of Kshs.1,000,000.00 or serve 5 years imprisonment in default. On the second count, he was convicted of dealing in wildlife trophies without a permit contrary to section 84 (1) as read with section 92 of the *Wildlife (Conservation and Management) Act* 2013 and sentenced to pay a fine of Kshs.20,000,000.00 or serve life imprisonment in default. His appeal to the High Court was dismissed on both conviction and sentence. Although aggrieved, he never lodged his notice of appeal within the statutory stipulated time of 14 days.
3. In his supporting affidavit sworn on 18<sup>th</sup> March 2025 contends that after his appeal was dismissed, he was traumatized for 6 years and viewed the appellate process as negative, therefore, he did not obtain copies of the Judgment and proceedings from the first Appellate Court. However, upon soul searching and upon being saved and accepting Jesus Christ, he has decided to appeal, but time had lapsed, hence this application.



4. In response to the application *vide* written submissions dated 22<sup>ND</sup> May 2025, Mr. Omutelema Senior Assistant Director of Public Prosecutions contends that even though the applicant’s sentence is lengthy, the delay of 7 years in filing his appeal is inordinate and the explanation for the delay is unreasonable and unsatisfactory. Counsel states that a similar application by the applicant’s co-accused was disallowed, on grounds that the delay of 6 years was inordinate.
5. The applicant has invoked Rule 4 of the *Court of Appeal Rules* which empowers this Court to enlarge time for doing anything under the rules. I have considered the application, the supporting affidavit sworn on 18<sup>th</sup> March 2025 and the respondent’s submissions dated 22<sup>nd</sup> May 2025. It is evident that there has been a delay of almost 7 years in filing the 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 v Paul Kipkorir Kibet* [2018] eKLR 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. In applying the principles in *Andrew Kiplagat Chemaringo v Paul Kipkorir Kibet* (*supra*), and considering that the applicant is acting in person and is serving a life sentence, and having read the grounds of appeal as elucidated in his supporting affidavit, I am inclined to exercise my discretion in his favour. I 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.
8. Orders accordingly.

**DATED AND DELIVERED AT NAKURU THIS 1<sup>ST</sup> DAY OF JULY, 2025.**

**J. MATIVO**

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**JUDGE OF APPEAL**

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

Signed.

**DEPUTY REGISTRAR.**

