



**Kariuki v Republic (Criminal Application E029 of 2025)
[2025] KECA 1179 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1179 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E029 OF 2025**

JM MATIVO, JA

JULY 1, 2025

BETWEEN

PETER KIERU KARIUKI APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application seeking extension of time to appeal against the conviction and sentence from the judgment of the High Court of Kenya at Nakuru (Kimaru & Musinga, JJ.) dated 9th May 2005 in CRA No. 460 of 2001)

RULING

1. The application before me is dated 15th March 2025. The main prayer is for extension of time to appeal to the Court of Appeal against the judgment issued in HCCRA No. 460 of 2001, on 9th May 2005.
2. The applicant, Peter Kieru Kariuki was tried before the Chief Magistrate’s Court in Criminal Case No.1549 of 2001 at Naivasha with four counts of robbery with violence contrary to section 296 (2) of the *Penal Code*. After a full trial, he was convicted on all the four counts. His appeal to the High Court was dismissed on both conviction and sentence. He failed to lodge his notice of appeal within the statutory stipulated time of 14 days.
3. As at the time of writing this ruling on 1st July 2025 at 0900 HRS, the respondent had not complied with the Court’s Case Management directions issued on 20th May 2025. Rule 58 (2) of the *Court of Appeal Rules* stipulates:

“(2) If the applicant appears or complies and the respondent fails to appear or comply, the application shall proceed in the absence of the respondent, unless the Court sees fit to adjourn the hearing...”



4. Rule 4 of the *Court of Appeal Rules* gives the Court unfettered discretion to “... extend the time limited by these Rules, or by any decision of the Court or of a Superior Court, for the doing of any act authorized or required by these Rules, whether before or after the doing of the act ...,” on such terms as it thinks just (see *Fakir Mohammed vs. Joseph Mugambi & 2 Others* [2005] eKLR).
5. I note that the instant application seeks similar orders and replicates Criminal Application No. E125 of 2024 filed before this Court, which was heard by Gachoka, JA and dismissed vide ruling dated 15th November 2024. By accident or design, the applicant states that the intended appeal is against the judgment in HCCRA 460 of 2001, instead of HCCRA No. 60 of 2001. His previous application seeking extension of time having been dismissed, it is not open for the applicant to mount a similar application seeking similar orders. That being the position, I find this application devoid of merit and is an abuse of the Court process. It is hereby dismissed.

DATED AND DELIVERED AT NAKURU THIS 1ST 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.

