



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Kipchumba v Republic (Criminal Application E020 of 2025)  
[2025] KECA 1178 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1178 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E020 OF 2025**

**JM MATIVO, JA**

**JULY 1, 2025**

**BETWEEN**

**JUSTUS KIPCHUMBA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an application seeking to appeal against both conviction and sentence from the judgment of the High Court of Kenya at Naivasha (C. Meoli, J.) dated 6th November, 2015 in CRA No. 32 of 2015)*

**RULING**

1. The application before the Court is dated 25<sup>th</sup> February 2025.  
The main prayer is for extension of time to appeal to the Court of Appeal at Nakuru against the Judgment delivered in HCCRA No. 32 of 2015, on 6<sup>th</sup> November, 2015.
2. The applicant, Justus Kipchumba was charged before the Chief Magistrate's Court at Narok in Criminal Case No. 739 of 2012 with the offence of robbery with violence contrary to section 296 (2) of the *Penal Code*. After a full trial, he was convicted and sentenced to death. His appeal to the High Court was dismissed on both conviction and sentence. Although aggrieved, he failed to lodge his notice of appeal within the statutory stipulated time of 14 days.
3. The applicant in his supporting affidavit sworn on 25<sup>th</sup> February 2025 contends that all along he had intentions to appeal and that he has been appealing to the Court of Appeal but he has never received any response from the Court.
4. In his written submissions dated 19<sup>th</sup> February 2025, the respondent's counsel Mr. Omutelema, Senior Assistant Director of Public Prosecutions contends that even though the applicant's sentence is lengthy, the delay of about 10 years in filing his appeal is inordinate and his contention that he presented



his appeal but received no response is not substantiated since he has neither provided details of the dates the notices were presented to Court nor copies of the notices.

5. The applicant has invoked rule 4 of the *Court of Appeal Rules*, 2022. I have considered the application, the supporting affidavit sworn on 25<sup>th</sup> February 2025, his submission dated 21<sup>st</sup> May 2025 and the respondent's submissions dated 22<sup>nd</sup> May 2025. Evidently, there has been a delay of approximately 9 years and 2 months in filing his 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. Guided by the above principles, I have considered the reasons proffered by the applicant, which I find to be unconvincing. If at all he had filed any documents in this Court signifying his intention to appeal as he claims, then I see no reason why he did not attach at least one such document to support his assertion. Ten years delay is inordinate, and it requires a plausible explanation. Therefore, it is my finding that the delay of 10 years has not properly been accounted for. Accordingly, this application is dismissed.

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

**J. MATIVO**

.....

**JUDGE OF APPEAL**

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

Signed.

**DEPUTY REGISTRAR.**

