



REPUBLIC OF KENYA



**Mayero v Republic (Criminal Appeal E031 of 2023)
[2024] KECA 382 (KLR) (28 March 2024) (Ruling)**

Neutral citation: [2024] KECA 382 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CRIMINAL APPEAL E031 OF 2023
PO KIAGE, JA
MARCH 28, 2024**

BETWEEN

KASSIM OTIENO MAYERO APPLICANT

AND

REPUBLIC RESPONDENT

*(An appeal from the judgment of the High Court of Kenya at Nairobi
(Kimondo, J.) dated 6th June 2023 in Criminal Appeal No. E025 of 2022)*

RULING

1. By his application dated 30th April 2023, the appellant/applicant prays under Rule 4 of the Court of Appeal Rules, 2022 for extension or enlargement of time for filing an appeal against the judgment of Kimondo, J. delivered on 6th June 2023 in High Court Criminal Appeal No. E025 of 2022. He prays, in the alternative, that the annexed draft notice of appeal be deemed as duly filed.
2. In grounds on the face of the motion and in the supporting affidavit, the applicant explains that he is dissatisfied with the learned judge's upholding of his conviction by the Chief Magistrate's Court on a charge of defilement and he appeals against the same as well as against the sentence, though reduced by the learned judge from 20 to 10 years' imprisonment.
3. He explains that as a result of being moved from Kamiti Maximum to Kamiti Medium and then to Ruiru General Prisons after the delivery of judgment on 17th June 2023, he was unable to convey his instructions to his family and advocates that he intended to file an appeal and time ran out, hence the application for enlargement. He thus prays that the delay not being inordinate, the Court do grant the motion.
4. The Director of Public Prosecutions is not opposed to the application and has expressly so stated in a letter to the Registrar of this Court dated 23rd October, 2023 under the hand of Margaret Matiru,



Senior Assistant Director of Public Prosecutions, who also says that the grant of the motion will not in any way prejudice the respondent.

5. The delay being neither inordinate nor excessive, and being, moreover, explained to my satisfaction, and there being no opposition from the respondent, I am persuaded to and do hereby grant the application.
6. Time for lodging the motion of appeal be and is hereby extended to the end that the notice of appeal herein is deemed to be properly filed and served.

Order accordingly.

DATED AND DELIVERED AT NAIROBI THIS 28TH DAY OF MARCH, 2024.

P. O. KIAGE

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

