



REPUBLIC OF KENYA



**Ngige v Republic (Criminal Application E013 of 2024)
[2024] KECA 848 (KLR) (18 July 2024) (Ruling)**

Neutral citation: [2024] KECA 848 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT ELDORET
CRIMINAL APPLICATION E013 OF 2024**

JW LESSIT, JA

JULY 18, 2024

BETWEEN

SAMUEL BORO NGIGE APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an application for leave to file his appeal out of time against
the judgment of the High Court of Kenya at Nakuru (M. ODERO,
J.) delivered on 3rd August 2019 In HCCRA No. 01 of 2009)*

RULING

1. The applicant, Samuel Boro Ngige seeks leave to file appeal out of time against the judgment of the High Court of Kenya at Nakuru (M. Odero, J.) delivered on 3rd August 2019 in HCCRA No. 01 of 2009. The applicant was charged and convicted at the Chief Magistrates' Court at Nakuru in Criminal Case No. 122 of 2009 with the offence of defilement contrary to section 8 (1) as read with section 8 (2) of the *Sexual Offences Act* and sentenced to undisclosed period. His appeal to the High Court against the judgment of the Magistrates' Court was dismissed.
2. In both the application and the supporting affidavit, the applicant attributes the delay in filing of his appeal to delay in being supplied with the proceedings and judgment of the superior court.
3. The applicant contends that he has an arguable appeal with high chances of success as demonstrated in his annexed memorandum of appeal. Further that the respondent will not suffer any prejudice if the application is allowed.
4. The application is unopposed.
5. Rule 4 of the *Court of Appeal Rules* governs the extension of time.



The Rule allows this Court to exercise discretion to extend the time limited by the Rules for the doing of any act authorized or required by the Rules.

6. I have considered the application and find the delay explained as having been caused by slow administrative action to supply the proceedings of the superior court in time for the filing of the appeal before expiry of time limited to do so. In the premises, I find merit in this application. Consequently, the applicant's undated application is allowed in the following terms:
 - i. I hereby allow the applicant's undated application as filed in this Court's registry.
 - ii. The applicant shall file a Notice of Appeal within fourteen (14) days from date hereof.
 - iii. The registry to prepare the Record of Appeal and file it and serve it on the applicant and the respondent within sixty (60) days hereof.
 - iv. The registry shall thereafter place appeal before the Court for hearing.

DATED AND DELIVERED AT ELDORET THIS 18TH DAY OF JULY, 2024

J. LESIIT

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

