



**Barton Ong'angi Kenyatta v Republic (Criminal Application  
E113 of 2024) [2024] KECA 1338 (KLR) (1 October 2024) (Ruling)**

Neutral citation: [2024] KECA 1338 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CRIMINAL APPLICATION E113 OF 2024  
MSA MAKHANDIA, JA  
OCTOBER 1, 2024**

**BETWEEN**

**BARTON ONG'ANGI KENYATTA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application seeking extension of time to file and serve Record  
of Appeal against the Judgment of the High of Kenya at Nyamira,  
(Maina, J.) delivered in the year 2020 in HCCRA No. 616 of 2020)*

**RULING**

1. I have carefully read and considered the application, the supporting affidavit of the applicant as well as the submissions of the respondent. I note that the applicant did not file submissions in support of the application.
2. However, the respondent supports the application in its submissions. The application seeks extension of time within which to file and serve record of appeal. The reason given by the applicant for not filing the appeal on time was that he was not supplied with the High Court judgment on time. This fact has not been contested by the respondent. If anything and as already stated, the respondent does not oppose the application. I am aware that the power to extend time is discretionary exercisable by court upon satisfactory reason(s) being given for the delay. It is trite that the entire period of delay has to be explained to the satisfaction of the Court.
3. I am also aware that in considering whether to extend time, the court is obliged to consider whether the intended appeal is arguable and has chances of success, hence not frivolous. In this application, the delay is slightly over 4 years. This period is outrightly outside the 14 days period required by law to file a criminal appeal. It thus requires a plausible explanation to warrant an extension.



4. Having considered the reason for the delay, being failure to be supplied with the High Court’s judgment in time and the nature of the sentence being served by the applicant and the fact that the respondent is not opposed to the application, I will exercise my unfettered discretion and allow the application.

**DATED AND DELIVERED AT KISUMU THIS 1<sup>ST</sup> DAY OF OCTOBER, 2024.**

**ASIKE-MAKHANDIA**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original

**DEPUTY REGISTRAR**

