



**Maina v Republic (Criminal Application E161 of 2024)  
[2024] KECA 1878 (KLR) (20 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1878 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CRIMINAL APPLICATION E161 OF 2024  
AO MUCHELULE, JA  
DECEMBER 20, 2024**

**BETWEEN**

**JACKSON NDIRITU MAINA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application seeking leave to appeal out of time against the judgment of the High Court of Kenya at Nanyuki (A.K. Ndung'u J.) dated 3rd October 2023 in HCR No. E002 of 2021)*

**RULING**

1. The applicant, Jackson Ndiritu Maina, was convicted by the High Court at Nanyuki of murder under section 203 as read with section 204 of the [Penal Code](#). He entered into a plea bargain and was sentenced to thirty (30) years imprisonment.
2. Before me is an undated notice of motion under [Rule 40](#) of this Court's Rules 2010 wherein the applicant seeks that leave be granted to appeal out of time since he could not appeal within the requisite time. He gives the reason for not appealing within time to be that he was promised by his relatives that they would hire an advocate for him but that they had failed to get money to hire one. In the process this delay had been occasioned.
3. Rule 4 of the [Court of Appeal Rules, 2022](#) allows for the extension of time to file a notice of appeal. There was thirteen (13) months of delay. I appreciate that there is no minimum or maximum period of delay, as each case depends on its peculiar circumstances. What is important is that the delay should not be inordinate; should be explained in reasonable and plausible terms; the respondent should not be unduly inconvenienced; and the intended appeal should have possible chances of success.
4. From the grounds, as argued in the written submissions by the applicant, the intended appeal has arguable points. The explanation for the delay appears reasonable, given that the applicant is in jail and for life. Communicating with relatives for purposes of appeal may not be easy.



5. On the whole, I allow the application and extend time. The applicant shall file and serve a notice of appeal within 7 days, and the record of appeal within 45 days from today.

**DATED AND DELIVERED AT NYERI THIS 20<sup>TH</sup> DAY OF DECEMBER 2024.**

**A.O. MUCHELULE**

.....

**JUDGE OF APPEAL**

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

*Signed*

Deputy Registrar

