



REPUBLIC OF KENYA



**KENYA LAW**  
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**Muturi v Republic (Criminal Application 165 of 2024)  
[2024] KECA 1879 (KLR) (20 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1879 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CRIMINAL APPLICATION 165 OF 2024  
AO MUCHELULE, JA  
DECEMBER 20, 2024**

**BETWEEN**

**JOHN GICHOVU MUTURI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application seeking leave to appeal out of time against the judgment of the High Court of Kenya at Embu (J. Lessit, J. & H. Ongudi, J.) dated 21st September 2012 in HCRA No. 181 of 2009 as consolidated with 183 of 2009)*

**RULING**

1. The applicant, John Gichovu Muturi, was convicted by the Chief Magistrate's Court at Embu of robbery with violence under section 296(2) of the Penal Code, and sentenced to suffer death. His appeal against conviction and sentence was on 21<sup>st</sup> September 2012 dismissed by the learned Lesit, J and H. Ongudi, J. of the High Court at Embu.
2. Before me is an undated notice of motion 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 not supplied with a copy of the original trial court records and the High court judgment thus occasioning the said delay.
3. Rule 4 of the Court of Appeal Rules, 2022 allows for the extension of time to file a notice of appeal. There was about twelve (12) years 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. The applicant has not filed written submissions in support of his application. However, the explanation for the delay appears reasonable, given that the applicant is in jail and for life.



Furthermore, the state is not opposed to this application as submitted in its written submissions.

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**

