



REPUBLIC OF KENYA



KENYA LAW
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**Gichobi v Republic (Criminal Application E136 of 2024)
[2024] KECA 1892 (KLR) (5 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1892 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CRIMINAL APPLICATION E136 OF 2024
S OLE KANTAI, JA
DECEMBER 5, 2024
[IN CHAMBERS]**

BETWEEN

ANDREW NJAGI GICHOBI APPLICANT

AND

REPUBLIC RESPONDENT

*(An application for extension of time for Leave to appeal out of time
from the Judgment of the High Court at Kerugoya (L.W. Gitari,
J.) dated 31st October, 2019 in HC Criminal Case No. 6 of 2014)*

RULING

1. The applicant, Andrew Njagi Gichobi applies by Motion on Notice that he be allowed to appeal out of Time. He Says in the Motion:

“That after the court decision, I filed my appeal in time, but I later informed (*sic*) that I do not have an appeal number it seems that there was a problem at the court registry. For that reason, I do leave (*sic*) of the court to appeal out of time.”

2. He says also that he is a pauper with no money to pay court fees.
3. He adds in the supporting affidavit that he was charged with the offence of murder at the High Court of Kenya, Kerugoya; was convicted and sentenced to serve 30 years imprisonment by Gitari, J. on 31st October, 2019; that he was aggrieved with that decision and filed an appeal on time but was not allocated an appeal number,

“..... it seems that there was a problem of filing at the court registry.”



- 4. He prays for time extension stating that his proposed appeal has high chances of success. I have seen the judgment where the applicant was convicted of the offence of murder on 31st October, 2019.
- 5. I have seen hearing notice served on 18th October, 2024 at 5.00 p.m. on nyerimaximumprison@gmail.com and nyeri@odpp.go.ke where parties were advised of the hearing date and instructed to file written submissions within limited time. I have not seen written submissions from either side.
- 6. The applicant says that after he was convicted and sentenced he appealed on time but that he was not allocated an appeal number due to some issues that arose at the court registry. I do not know why this took a long time to be resolved. I note that his application is undated but it was processed by the Officer-in Charge, Nyeri Maximum Prison, on 24th August, 2024, about 5 years after judgment. But without any information to the contrary I accept the applicant's assertion that he appealed on time but that his appeal was not allocated an appeal number. I allow the Motion. Let the Court registry allocate an appeal number to the appeal which had been filed or if not found, let the applicant file appeal within fourteen (14) days of today. The registry to accept the appeal without requiring the applicant to pay any court fees which the applicant says he cannot afford.

DATED AND DELIVERED AT NYERI THIS 5TH DAY OF DECEMBER, 2024.

S. ole KANTAI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

