



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Kipngetich v Republic (Criminal Application E175 of 2024)  
[2024] KECA 1728 (KLR) (4 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1728 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E175 OF 2024  
MA WARSAME, JA  
DECEMBER 4, 2024**

**BETWEEN**

**WESLEY KIPNGETICH ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for extension of time to file a notice of appeal, against the judgment of the High Court at Bomet (Muya, J.) dated 12th August 2018, in HCCRA No. 33 OF 2017)*

**RULING**

1. The applicant, was convicted and sentenced to life imprisonment for defilement contrary to Section 8(1) as read with Section 8(2) of the Sexual Offences Act in Criminal Case No. 70 of 2019 at Bomet. His appeal against conviction and sentence was dismissed by the High Court on 12<sup>th</sup> August 2018.
2. The applicant failed to lodge a notice of appeal within the stipulated time and has filed the present application dated 23<sup>rd</sup> August 2024, seeking to enlarge the time to appeal. The applicant contends that he was not able to appeal on time because he was not supplied with the Court's Judgment.
3. The court has settled on the matters which should be taken into consideration when the court was called upon to exercise its discretion. Those matters, as was stated in the case of Leo Sila Mutiso vs Helen Wangari, (NRB) Civil Application No. 251 of 1997, include:  

“... first, the length of the delay; secondly, the reason for the delay; thirdly (possibly), the chances of the appeal succeeding if the application is granted; and fourthly, the degree of prejudice to the respondent if the application is granted.”
4. In this case, the High Court rendered its judgment on 12th August 2018. The applicant filed this application almost 6 years out of time.



5. In my view this delay is inordinate and the explanation that the delay was occasioned by the Court is unsubstantiated. There is no indication whatsoever that the applicant intended to appeal. The appeal is simply an afterthought.
6. Consequently, I decline to exercise my discretion in favour of the applicant and dismiss the application.

**DATED AND DELIVERED AT NAKURU THIS 4<sup>TH</sup> DAY OF DECEMBER 2024.**

**M.WARSAME**

.....

**JUDGE OF APPEAL**

I certify that this is a True copy of the original.

Signed

**DEPUTY REGISTRAR**

