



REPUBLIC OF KENYA



KENYA LAW
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**Lelerte v Republic (Criminal Application E194 of 2024)
[2024] KECA 1730 (KLR) (4 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1730 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E194 OF 2024
MA WARSAME, JA
DECEMBER 4, 2024
[IN CHAMBERS]**

BETWEEN

JULIUS LEPEYE LELERTE APPLICANT

AND

REPUBLIC RESPONDENT

(An application for extension of time to file a notice of appeal, against the judgment of the High Court at Nakuru (Ouko J. & Omondi J.) dated 24th February 2012, in HCCRA No. 94 of 2009)

RULING

1. The applicant, Julius Lepeye has filed an application dated 4th June 2024, seeking extension of time to file a notice of appeal. He deposes that he was charged with the offence of robbery with violence contrary to section 296(2) of the [Penal Code](#) and sentenced to life imprisonment in a judgment delivered on 24th February 2012.
2. He avers that he was unable to file the appeal because he was not supplied with a copy of the High Court judgment.
3. As was stated in [Fakir Mohamed v. Joseph Mugambi & Two Others](#), Civil Application No. Nai. 332/04 (unreported) on the discretion of this Court in a rule 4 application:

“As it is unfettered, there is no limit to the number of factors the court would consider so long as they are relevant. The period of delay, the reason for the delay, (possibly) the chances of the appeal succeeding if the application is granted; the degree of prejudice to the respondent if the application is granted, the effect of the delay on public administration, the importance



of compliance with time limits; the resources of the parties, whether the matter raises issues of public importance are all relevant but not exhaustively factors. ”

4. The delay in filing the present application is about 12 years. In my view this delay is inordinate and the explanation that the delay was occasioned by the Court is unsubstantiated. There was no indication that the applicant intended to appeal, and it is evident that the appeal is simply an afterthought.

5. Consequently, I decline to exercise my discretion in favour of the applicant and dismiss the application

DATED AND DELIVERED AT NAKURU THIS 4TH DAY OF DECEMBER, 2024.

M. WARSAME

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JUDGE OF APPEAL

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

Signed

Deputy Registrar

