



**Ngitari v Republic (Criminal Application E190 of 2024)
[2024] KECA 1729 (KLR) (4 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1729 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E190 OF 2024
MA WARSAME, JA
DECEMBER 4, 2024**

BETWEEN

NICHOLUS NGITARI 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 (Koome, J.) dated 26th November 2007 in HCCRA No. 81 OF 2006)

RULING

1. Nicholas Ngitari (the applicant) was charged with murder contrary to section 203 as read with section 204 of the [Penal Code](#). He was tried, convicted and sentenced to death on 26th November 2007.
2. He however was not able to file his appeal within the required period and thus by this notice of motion dated 10th September 2024, seeks to be granted leave to file his intended appeal out of time frame.
3. The reason for delay as explained in his supporting affidavit is that his family, whom he was dependent on, faced financial constraints and were unable to hire an Advocate.
4. Considering that the delay in bringing the instant application is almost 17 years, I do not find the applicant's explanation plausible. There is no requirement for a convicted person to expend funds to file a notice of appeal or a requirement that an advocate to be the one to file it. It seems to me that the present application is an afterthought, brought too late in the day.
5. I accordingly find the delay inordinate and the application devoid of merit, and I decline to exercise the discretion granted under Rule 4 of the [Court of Appeal Rules](#) to extend time for the applicant. The application dated 10th September, 2022 is therefore dismissed.

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



M. WARSAME

.....

JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

