



REPUBLIC OF KENYA



KENYA LAW
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**Wangaruo v Republic (Criminal Application 39 of 2019)
[2022] KECA 551 (KLR) (27 May 2022) (Ruling)**

Neutral citation: [2022] KECA 551 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CRIMINAL APPLICATION 39 OF 2019
PO KIAGE, JA
MAY 27, 2022**

BETWEEN

MAURICE OUMA WANGARUO APPLICANT

AND

REPUBLIC RESPONDENT

*(Application from a judgment of the High Court of Kenya at Siaya
(Makau, J.) delivered on 27th June, 2017 in HCCRC No. 1 of 2016)*

RULING

1. The applicant, Maurice Ouma Wangaruo, applies by the motion dated 14th October, 2019 that the time for lodging a notice of appeal against the dismissal of his first appeal by the High Court at Siaya be extended. He had appealed against conviction and a 15-year sentence of imprisonment meted on him by the Magistrate's Court at Ukwala.
2. He states in the grounds on the motion's face and a supporting affidavit sworn on 23rd October, 2019 that his family members have abandoned him in prison custody and that he filed a notice of appeal late because a promise by his family members to hire an advocate for him did not materialize.
3. In submissions in response to the application signed and filed by Ligami Shitsama, learned Prosecution Counsel, the respondent points out that the grant of an application such as this lies in the discretion of the Court. He adds that the applicant's reasons for delay should be accorded the benefit of doubt.
4. The application being therefore unopposed, and seeing that no prejudice will be occasioned by grant of the motion which I think has disclosed plausible reasons for the delay, I am minded to exercise my free and unfettered discretion to extend time under Rule 4 of the *Court of Appeal Rules*.



5. The motion is thus allowed and the applicant's notice of appeal be and is hereby deemed as filed within time. Given the time already taken, I direct that the Hon. Deputy Registrar do follow up to have the record filed in timely fashion.

DATED AND DELIVERED AT KISUMU THIS 27 TH DAY OF MAY, 2022

P. O. KIAGE

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

