

IN THE COURT OF APPEAL

AT KISUMU

(CORAM: GITHINJI, JA. (IN CHAMBER))

CRIMINAL APPEAL (APPLICATION) NO. 10 OF 2018

BETWEEN

MUSA OKOTH SAKA.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Being an Appeal from the Judgment of the High Court of Kenya

at Kisumu, (Onesmus, J.) dated 22nd day of January, 2013

in

H.C.CR. A. NO. 9 OF 2013)

RULING

This is an application for extension of time within which to file a notice of appeal against the judgment of the High Court in **Criminal Appeal No. 9 of 2013** delivered on 22nd November, 2013. The application is supported by the affidavit of **Richard Onsongo**, the applicant's counsel. **Mr Sirtuy**, learned prosecutions counsel has not filed a replying affidavit. He however indicated that he has no objection to the application.

The application is made on the basis that the applicant prepared a notice of appeal in time and handed it over to prison authorities to forward it to the Court of Appeal Registry and that an inquiry at the Registry by the applicant's counsel revealed that the said notice of appeal was not received by the registry. As the respondent did not file a replying affidavit the facts supporting the application are not controverted.

In the circumstances and in the interest of justice, I would exercise my discretion in favour of the applicant and extend time as prayed. Accordingly, the application is allowed. Time for filing notice of appeal is extended. The notice of appeal to be filed within **seven (7) days** from the date hereof.

Made at Kisumu this 22nd day of October, 2018.

E. M. GITHINJI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR