



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: MURGOR, J.A)

CRIMINAL APPLICATION NO. 3 OF 2015

BETWEEN

KENNEDY OMONDI OYUGI.....APPLICANT

AND

REPUBLIC.....RESPONDENT

(Application for extension of time within which to file a Memorandum of Appeal and Record of Appeal against Appeal from a Judgment of the High Court of Kenya at Kisumu J.R Karanja and Aroni J J) dated 23rd March, 2010

in

H.C.CRA NO.138 OF 2004

RULING

The Notice of Motion dated 11th February, 2015, is an application for the extension of time under **Rule 4** of the **Court of Appeal Rules 2010**, where in the applicant seeks to lodge an appeal out of time against the judgment of J.R. Karanja and Aroni, JJ dated 23rd March, 2010.

In an affidavit supporting the application, Kennedy Omondi Oyugi, the applicant, deponed that his second appeal to the High Court was dismissed on 23rd March, 2010. That being aggrieved by the decision of the High Court, he had filed a Memorandum of Appeal. It was his contention that since filing his Appeal, unlike his co-appellants William Ochieng Otieno - Criminal Appeal Number 70-155 of 2010, he had not received a Criminal Appeal case number and neither had he received any hearing notices to attend the hearing of his appeal, in the Court of Appeal.

As a result, he reached the conclusion that the appeal had not been lodged within the period stipulated. As a consequence, the applicant prayed that time be extended to enable him to lodge his appeal.

When the applicant appeared before me in person on 19th May, 2015, he more or less reiterated the averments of the affidavit in support of the application.

Mr. Sirtuy, learned Provincial Prosecution Counsel submitted that he did not have any objection to the

extension sought.

Having regard to the application, the submissions and the law, I consider that the application is deserving of my consideration to exercise my discretion to extend time to lodge the appeal out of time.

Accordingly, I exercise my discretion to allow the application. I order that the time for filing of the Memorandum of Appeal and Record of Appeal is hereby extended by one (1) month from the date hereof.

Dated at Kisumu this 21st day of May 2015

A.K.MURGOR

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JUDGE OF APPEAL

I certify that this is

a true copy of the original.

DEPUTY REGISTRAR