



**IN THE COURT OF APPEAL**

**AT KISUMU**

**(CORAM: MARAGA, J.A. (IN CHAMBERS))**

**CRIMINAL APPLICATION NO. 11 OF 2015**

**BETWEEN**

**JULIUS OMBORI BISIERY.....APPLICANT**

**AND**

**REPUBLIC.....RESPONDENT**

*(An Application for leave to file Notice of Appeal out of time from a Judgment of the High Court of Kenya at Kisii, (Maina & Okongo, JJ.) dated 30<sup>th</sup> January, 2014*

**in**

**H.C.CR.A. NO. 264 OF 2010)**

**\*\*\*\*\***

**RULING**

**JULIUS OMBORI BISIERY** the applicant has sought leave of this Court to file his appeal out of time. He states in his affidavit in support of the application that when his first appeal was dismissed by the High Court on 30th January 2014, he gave his application for leave to appeal out of time to the prison authorities to file on his behalf but that application, as his advocate Mrs. Asuna has confirmed, was never filed.

I am satisfied that failure to appeal in time has been explained. The applicant is in prison and unless assisted by prison authorities he was unable to file his appeal in time.

As Mr. Ketoo, learned Prosecution. Counsel, also does not oppose this application, I grant the same. The appellant has leave to file and serve his memorandum of appeal within 14 days.

**DATED this 21<sup>st</sup> July, 2015.**

**D.K.MARAGA**

.....

**JUDGE OF APPEAL**

I certify that this is

a true copy of the original.

**DEPUTY REGISTRAR**