

IN THE COURT OF APPEAL

AT NAIROBI

CORAM: BOSIRE J.A (IN CHAMBERS)

CRIMINAL APPEAL (APPLICATION) NO.128 OF 2001

BETWEEN

PETER KAMENYA KAMAU.....APPLICANT

AND

REPUBLIC.....RESPONDENT

**(Being an application for extension of time to file and
serve Notice of Appeal and Record of Appeal out of
time in an intended appeal from a conviction and
sentence of the High Court of Kenya at Nairobi
(Osiemo & Ondeyo, JJ) dated 23rd July 1998**

in

H.C.CR.A. NO.684 OF 1996

RULING

The applicant's second appeal against his conviction for the offence of robbery with violence contrary to section 296(2) of the Penal Code, was, on 28th November 2001, found to have been filed out of time. In the present application he seeks an extension of time to regularize the defect. Mr Bw'Onwonga, Assistant Deputy Public Prosecutor does not oppose the application. That being so and in view of the fact that the applicant stands convicted of a capital charge, I am inclined to grant the extension prayed for and extend the time for such period as will include 16th November, 1998, when the applicant lodged his notice of appeal.

The applicant also prays that he be allowed an extension of time within which to prepare a record of appeal. By reason of the provisions of rule 61 of the Court of Appeal Rules it is the prerogative of the Registrar to prepare a record of appeal; consequently the issue does not arise here.

Mr P.N. Mugo for the applicant prays for leave to file a supplementary memorandum of appeal. I grant leave as prayed.

Dated and delivered this 22nd day of January 2002.

S.E.O. BOSIRE

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR