



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL  
AT NAKURU  
(CORAM: OWUOR, J.A (IN CHAMBERS))  
CRIMINAL APPLICATION NO. NAI. 9 OF 2001  
BETWEEN**

**PHILIPH KIPKOSGEI RUTO .....APPLICANT  
AND  
REPUBLIC .....RESPONDENT**

**(Application for extension of time to file Notice of  
appeal out of time in an intended appeal against the  
judgment of the High Court of Kenya at Kericho (Mr.  
Justice Rimita) dated 27th July, 2000  
in  
H.C.CR. APPEAL NO. 11 OF 1999)**

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**R U L I N G**

The applicant's appeal before the superior court was dismissed as far back as 27th July, 2000. The reason he gave for the delay in lodging his Notice of appeal in the affidavit sworn in support of the application was that:-

*"That your honour I was sentenced before Kericho High Court and that my fourteen days expired while my transfer was prepared to be taken to Nakuru Prison".*

In his submission to me in court he changed his story and alleged that the delay to file the appeal was due to lack of money to engage an advocate. His family who had promised to engage one for him did not do so.

I am of the view that the applicant is not being candid with the Court. I am unable to exercise my discretion in his favour in the result that the application is hereby dismissed.

**Dated and delivered at Nakuru this 24th day of September, 2001.**

**E.**

**OWUOR**

.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**