



REPUBLIC OF KENYA



**In re David Atuti (Deceased) (Civil Application E014 of 2025)
[2026] KECA 158 (KLR) (30 January 2026) (Ruling)**

Neutral citation: [2026] KECA 158 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPLICATION E014 OF 2025
HA OMONDI, JA
JANUARY 30, 2026
IN THE MATTER OF DAVID ATUTI (DECEASED)**

BETWEEN

ELIZABETH KEMUMA NYAMASEGE APPLICANT

AND

CHRIS MARANGA 1ST RESPONDENT

ROSEBELLAH ONCHERA 2ND RESPONDENT

(Being an application for extension of time to file a notice of appeal and record appeal from the judgment of the High Court of Kenya at Kisii (Ougo, J.) dated 6th December 2019 in HCCA No. 25 of 2019)

RULING

1. In a bid to place matters in perspective, I have tried to glean the background of this matter from the documents placed before this Court, which suggests that the parties had a matter which was heard before the High Court at Kisii (Ougo, J.), and judgment was delivered on 6th December 2019. It would appear that the applicant was not satisfied with the outcome and instructed her then counsel on record to lodge an appeal, but this did not happen. She eventually instructed another advocate from the firm of S. M. Sagwe to take over the matter and pursue the appeal.
2. This is what led to filing the notice of motion dated 11th February 2025, in which the applicant prays for extension of time within to file the Notice of appeal and also prepare and file the record of appeal out of time. She explains that she has now applied for certified copies of the proceedings vide a letter dated 10th February 2025.
3. Apart from the application and record of appeal, nothing else has been filed by way of written submissions as a demonstration of prosecuting this application; and the only reasonable conclusion to



make is that the applicant has lost interest in this matter which stands unprosecuted. The respondents have not filed any response or submissions. Consequently, the application is dismissed with no orders on costs.

DATED AND DELIVERED AT KISUMU THIS 30TH DAY OF JANUARY, 2026.

H. A. OMONDI

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

