Supporting Affidavit Explaining Counsel Delay in a Supreme Court Appeal

Educational sample 092 | Supreme Court of Kenya at Nairobi

Educational reconstruction based on a reported Kenyan decision. This is newly drafted text, not an original court filing, not a matter handled by our team, and not proof that a sample argument succeeded. Parties, parcels and identifying case details in the specimen are replaced with bracketed fields. Do not sign, swear or file it without checking your facts, jurisdiction, applicable rules and court directions.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA AT NAIROBI

CASE OR APPLICATION NO [insert appropriate reference]

[APPLICANT OR CLAIMANT] v [RESPONDENT OR DEFENDANT]

SUPPORTING AFFIDAVIT

1. I, [Applicant], make oath and state that I am one of the Applicants and depose to my own dealings with counsel and the records identified below. I do not claim knowledge of instructions given by another person unless the source is stated.

2. The Court of Appeal judgment was delivered on [date]. I learned of its delivery on [date] by [identified communication]. My knowledge of the judgment and my later knowledge that no Supreme Court appeal had been filed are separate events.

3. I instructed [former advocate, redacted in this specimen] to take [specified appellate step] on [date]. The contemporaneous written instruction or other actual proof is annexed as D1. Where no written instruction exists, I state that limitation and the basis of my recollection.

4. The payment receipt dated [date] identifies [actual proceeding and service]. It is annexed as D2. If it relates to the earlier Court of Appeal matter, I do not state that its description proves payment for a Supreme Court appeal.

5. The statements counsel made about filing were [actual words or accurate account] on [dates], supported by [record]. I identify the date and method by which I checked the registry position and discovered non-filing at D3.

6. I requested proceedings on [date]. That letter is annexed as D4. The period between that request and the present application was [duration], during which I took [proved steps]. Any interval without action is explained honestly rather than omitted.

7. After discovering non-filing I took [steps and dates] to obtain assistance and prepare this motion. Supporting correspondence is D5. I do not invent a date of discovery or an instruction document to make the chronology appear prompt.

8. I ask the Court to consider the motion on this account and the attached records. The proposed filing period and any factual prejudice known to me are [details]. Legal arguments on extension and jurisdiction are contained in the accompanying submissions.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [Commissioner for Oaths]. The jurat must be completed by the authorised officer; this sample has not been sworn.

Use and evidence notes

A statement blaming counsel needs the actual communication trail and a complete later chronology. In the source case the receipt did not establish the claimed Supreme Court instruction. Obtain the appropriate deponent's evidence where available, while respecting privilege and confidentiality. This specimen has not been sworn.

D1 instructions; D2 payment receipt with accurate case description; D3 non-filing discovery record; D4 proceedings letter; D5 later actions and dates.

Source and procedural limits

Two parties in a succession dispute sought more time to appeal a Kisumu Court of Appeal judgment of 6 November 2015. They blamed former counsel. A March 2016 proceedings-request letter showed knowledge of the judgment; the motion was not filed until January 2017.

The motion was dismissed without costs although unopposed. The receipt relied on concerned the earlier Court of Appeal case, and the later period of delay was not adequately explained. Alleging counsel's mistake was insufficient without a supported chronology.

Current Supreme Court Rules 2020 rule 15(2) governs extension of rule-based time. The 2018 ruling applied the historical rule 53. Extension does not itself establish jurisdiction under Constitution Article 163(4) or extend a constitutional deadline.

Supreme Court Civil Application 1 of 2017 — 8 November 2018. Source: https://supremecourt.judiciary.go.ke/wp-content/uploads/2026/07/Hellen-Cheruto-Another-Vs-Sisilia-Mwikali-Kirwa-SC-Application-1-of-2017-Ruling-8th-November-2018.pdf

The linked original judgment may identify parties. This public specimen omits their names. Historical allegations are not presented as established facts. A different result in your own proceedings is possible.