

**IN THE COURT OF APPEAL OF TANZANIA
AT TANGA**

CRIMINAL APPLICATION NO. 3 OF 2009

**GUMBO OMARIAPPLICANT
VERSUS
THE REPUBLIC.....RESPONDENT**

**(Application for Extension of Time to File Review from the
Judgment of the Court of Appeal of Tanzania at Tanga)**

(Munuo, J.A., Msoffe, J.A., And Kaji, J.A.)

**dated 3rd day of June, 2005
in
Criminal Appeal No.105 of 2004**

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R U L I N G**

KIMARO, J.A.:

This is an application for extension of time to file a review. The applicant appeared in person. The respondent Republic is represented by Mr. Tumaini Kweka, learned State Attorney. The judgment which the applicant wants to challenge in a review was delivered on 3rd June, 2005.

Among the reasons which the applicant has given in his affidavit in support of the application is that he failed to file the application in time because of being in prison. That he was not satisfied with the judgment. The application was filed on 29/05/2009.

Mr. Tumaini Kweka learned State Attorney has vehemently opposed the application. He challenged the supporting affidavit that it does not comply with the Oaths and Statutory Declarations Act, CAP 34 R.E. 2002 in that the applicant did not comply with the format provided for swearing/affirming oath, and that the affidavit is not verified. He further submitted that the applicant has not given sufficient cause for the delay in filing the application.

On my part I entirely agree with the learned State Attorney. The affidavit is not verified and it is not properly deposed as per the requirement of the law.

The applicant informed the Court that he was not satisfied with the judgment of the Court and he wants to challenge it by a review. Reviews are governed by Rule 66 of the Court of Appeal Rules, 2009 which became effective on 1st February, 2010. Conditions for applying for review are enumerated in the said provision.

In an application for extension of time under Rule 10 of the new Rules, the applicant must show sufficient cause. One of the factors which the applicant must satisfy is to show that the review is likely to

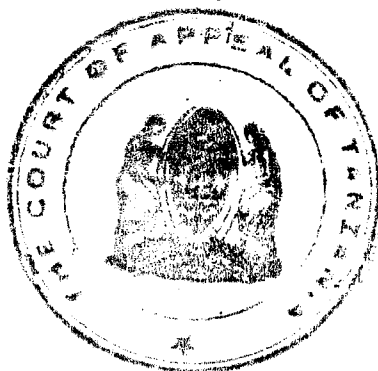
succeed. See the case of **Royal Insurance Tanzania Limited v Kiwangwa Strand Hotel Limited**, Civil Application No. 111 of 2009 (unreported). The affidavit apart from being defective does not show why the applicant wants to challenge the judgment. Instead he talks of filing a new appeal. Such a situation is not allowed. See the case of **Miraji Seif v R**, Criminal Application No. 2 of 2009 (unreported).

Under the circumstances I will entirely agree with learned State Attorney on the defects pointed out in respect of the affidavit and add that the applicant has totally failed to show reasons for granting the application. It is dismissed.

DATED at TANGA this 12th day of March, 2010.

N. P. KIMARO
JUSTICE OF APPEAL

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




(N. N. CHUSI)
DEPUTY REGISTRAR