

IN THE COURT OF APPEAL OF TANZANIA
AT MBEYA

CRIMINAL APPLICATION NO. 5 OF 2014

DUDA DUNGALI.....APPLICANT
VERSUS

THE REPUBLIC RESPONDENT

**(Application for Extension of time from the Decision of the Court of Appeal
at Mbeya)
(Bwana, J.A.)**

**dated the 5th day of May, 2014
in
Criminal Application No. 4 of 2013**

.....

RULING

KIMARO, J. A.:

The application is for extension of time to file a reference against the decision of Bwana, J.A. as he then was, which dismissed the application for extension of time to file a review against the decision of the Court delivered on 5th May, 2005.

The applicant has filed the application under Rule 10 of the Court of Appeal Rules, 2009. The application was filed on 4th June, 2014.

Before the Court when the application was called for the hearing the applicant appeared in person. He had no counsel to represent him. Ms. Catherine Paul learned State Attorney entered appearance for the Republic/Respondent.

The applicant had nothing much to tell the Court, apart from insisting that he has been in jail for a long time and he prayed that his application be granted.

The decision of Hon. Justice Bwana was delivered on 5th May, 2014. The application was filed on 4th June, 2014. According to Rule 62 (1) a person dissatisfied with a decision of a single justice and intends to apply for a Reference has to do apply informally to the Registrar within seven days. As the decision was given on 5th May, 2014 and the applicant filed a formal application on 4th June, 2014 it is obvious that the application was filed out of the seven days. To be precise it was filed after thirty one days. The application was filed out of time.

The issue before the Court is whether the applicant has shown sufficient cause for being granted extension of time.

In the affidavit the applicant has deponed in support of the application, the applicant has not indicated why he failed to file the application in time. What he has indicated in the affidavit is his desire to have the application heard and the exhibits he intends to rely upon.

For the omission to say specifically why he was late to file the application, Ms. Catherine Paul, learned State Attorney requested this Court to dismiss the application. She cited to the Court the case of **Fadhili Yahya v. Republic, Criminal Appeal No. 2 of 2010 CAT (unreported)**.

Indeed the application lacks merit. Rule 10 of the Court of Appeal Rules, 2009 requires the applicant to show good cause. As correctly pointed out by the learned State Attorney, the applicant has not shown any reason for being granted extension of time. None of the five paragraphs of his affidavit depone on the reason for the delay in filing the application. In the case of **Fadhili Yahaya V. Republic** (supra) the Court dismissed the application because the applicant did not give reasons for the delay in filing the application.

The same fate befalls on this application. The application is dismissed for lack of reasons to support the delay in filing the application.

DATED at MBEYA this 13th day of April 2016.

N. P. KIMARO
JUSTICE OF APPEAL

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

