## THE UNITED REPUBLIC OF TANZANIA AT SUMBAWANGA

MISC. CRIMINAL APPLIATIOX NO. 7 OF 2006.(Original Cr. Case No. 83/2006 District Court Mpanda)

FRANK ISSACK $\qquad$
VERsus
TILE REPUBLIC

APPLICANT

RESPONDENT
(Dated 30/7/2007
and
7/8/2007)

## RULING;

## Before: Hon. A. A. Nchimbi. J.:

This is an application for leave 10 appeal out of time. It is supported by the affidavit of the applicant.

Whereas the applicant appeared in person the respondent Republic was represented by Mr. Malata, learned State Attorney.

In paragraph four of the applicamis affidavit it is stated that upon being convicted by the trial court the applicant got confused not knowing what to do. He added before this court that the other reason for the delay to file his appeal was due to the fact that he was not supplied with a copy of judgment in time.

Mr. Malata could not stand to concede the applicant's arguments. He fantued them for the following reasons. Firstly, the appellant did not file notice of appeal as required by law under s. $361(\mathrm{a})$ of the Criminal Procedurr Let. (apr.20). He was supposed to do that within ten days from the date of judgment. He wondered how the appellant could have been confused for all those days when after all he was duly informed by the trial court of his right of appeal. Secondly, delay to be supplied with a copy of judgment is not sulficient ground in support of the application because the time for waiting would have been excluded. Lastly no reasons for extending time to file the appeal have ever been advanced. He urged the court 10 find that there is no likelihood of the intended appeal to succeed. For his submissions was the case of YONA KAPONOA V 9 OTHERS (1985) TLR pg. 84.

I am quick to say that the applicant has not assigned good cathse for the delay and for extending time to file his appeal. I concur with The learned State Attorney that confusion camot amount to good cause. The applicant had ten days within which to file notice of appeal. He did not do that. The applicant did not explain the state of confusion he was in. There is no suggestion that he is of unsomed mind or that at least. he was temporarily insane. I do not even believe that he told the prison officer concerned of his intention to appeal as he sought to convince the court. That is a bare assertion and simply an after thought for it is not even one of the grounds contained in his affidavit. Similarly, the accusation that the court delayed to supply him with a copy of julgmen to be appealed from is not substantiated at all leave alone that could have been taken care of by the relevant law and it is not itemized in his affidavit.

In the upshot the application is herehy ordered dismissed.



Judge.
7/8/2007.

