

**IN THE HIGH COURT OF TANZANIA**

**AT DAR ES SALAAM**

**CRIMINAL APPEAL NO. 271 OF 2017**

**IBRAHIM ANTONY FONKA JOSEPH ..... APPELLANTS**

**VERSUS**

**THE REPUBLIC..... RESPONDENT**

**(Appeal from the judgment of the Resident Magistrate's Kibaha)**

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**RULING**

29.06.2018

**A.Z.MGEYEKWA, J**

The Appellant herein above has filed a Notice of Appeal seeking to challenge the decision of the Resident Magistrate Court of Kibaha dated the 22<sup>nd</sup> June 2017.

The appellant appeared in person while Ms. Immelda Mushi, learned counsel appeared for the respondent.

When this matter came for hearing of the purported appeal the learned State Attorney expressed concern that the Notice of Appeal has been filed out of time, as per section 361 (1) (a) of the Criminal Procedure Act, Cap. 22 [R.E. 2002]. The section requires the appellant to notify the court within 10 days after the judgment has been read. Thus, the counsel for

the appellant has prayed for this court to strike out the notice of the appeal.

After a cursory perusal of the records in this appeal clearly reveals that the appellant has filed the Notice of Appeal out of time. The Notice of Appeal was lodged on 06.7.2017, fourteen days after the date of pronouncing the judgment contrary to the requirement of section 361 (1) (a) of the Criminal Procedure Act, Cap. 22 [R.E. 2002] which state that:-

*“ Subject to subsection (2), no appeal from any finding, sentence or order referred to in section 359 shall be entertained unless the appellant-*

*(a) has given notice of his intention to appeal within ten days from the date of the finding, sentence or order or, in the case of a sentence of corporal punishment only, within three days of the date of such sentence.”*

In conclusion, for the reason given above, this Notice of Appeal was time barred contrary to section 361 (1) (a) of the Criminal Procedure Act, Cap. 22 [R.E. 2002]. Hence, I proceed to strike out the Notice of the Appeal.



A.Z Mgeyekwa

**JUDGE**

26.06.2018

The Judgment was Delivered in Court Chamber in the presence of the appellant and in the presence of Ms. Immelda Mushi, the learned State Attorney this date 29.06.2018.

  
A.Z Mgeyekwa

**JUDGE**

26.06.2018

