

**IN THE HIGH COURT OF TANZANIA**  
**AT SUMBAWANGA**  
**MISC. CRIMINAL APPLICATION NO. 28 OF 2020**

**(from Nkasi District Court Criminal Case Appeal No. 4/2015, Original Criminal Case No. 216/2011 – Namanyere Primary Court)**

**ALEXANDA KANONI.....APPLICANT**

**VERSUS**

**ANNOSISYE CHEYO.....RESPONDENT**

*(Application for extension of time to file notice of intention to appeal and petition of appeal to this court from the decision of Nkasi District Court)*

**RULING**

**20<sup>th</sup> - 21<sup>st</sup> May, 2020**

**MRANGO, J**

The applicant, Alexandra Kanoni has lodged this application under **section 25(1) (b) of the Magistrates Court Act, Cap 11, RE 2018**, seeking leave for extension of time that he be allowed to file notice of intention to appeal and appeal to this court outside statutory time required by law. The application is supported by the affidavits sworn, drawn and filed by the applicant himself and that of the Officer Incharge of Sumbawanga Remand Prison.

When the application was called on for hearing, the applicant present by way of video conference at prisons; whereas, the respondent was absent, though served.

The hearing proceeded orally.

The applicant prayed for the court to adopt the affidavit that have lodged and have nothing to add.

I have gone through this court's records and the respective submission by Respondent. The question for determination is whether the applicant has been able to advance sufficient reason for the delay.

It is a cardinal principle that when the time has expired, there must be explanation or material upon which the court may exercise its discretion to extend it. See decisions in the case of **Regional Manager Tanroads Kagera versus Rinaha Concrate Co. Ltd; Civil Application No. 96 of 2007 CAT, unreported and Godwin Ndeweri and Karoli Ishengoma versus Tanzania Indil Corporation (1995) TLR 200** and **Republic versus Yona Kaponda and 9 others (1985) TLR 84.**

In the instant application, the applicant through his averment in paragraphs 2, 3 and 4 of the affidavit has advanced the reason for the delay being that failure to lodge a notice of intention of appeal and petition

of appeal to the High Court on time via Prison Authority however, during hearing of the petition of appeal it was found to be out of time, therefore it was not his fault.

As well this application by the applicant is also supported by the supplementary affidavit of the Officer Incharge of Sumbawanga Remand Prison who supports what was stated by the applicant in his affidavit as to be true.

With that view, I find that the applicant has advanced good cause for the failure to appeal within prescribed period of time. For that reason, I allow the application. The applicant is given a period of ten (10) days from today within which to file the notice of intention to appeal as well forty five (45) days within which to file petition of appeal to this court.

It is so ordered.



  
**D.E MRANGO**

**JUDGE**

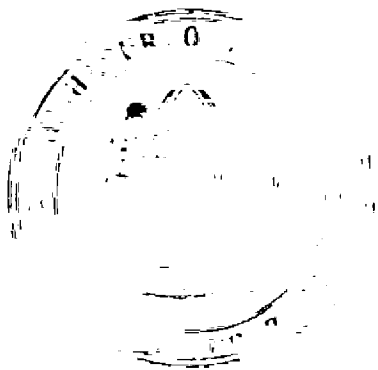
**21. 05. 2020**

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Date	-	21.05.2020
Coram	-	Hon. D.E. Mrango – J.
Applicant	-	Present/by way of video conference at Prison
Respondent	-	Absent without notice
B/C	-	Mr. A.K. Sichilima – SRMA

**COURT:** Ruling delivered today the 21<sup>st</sup> day of May, 2020 in presence  
of the Applicant/through video conference at Prison and in the  
of the Respondent without notice – though served.

Right of appeal explained.



  
**D.E. MRANGO**

**JUDGE**

**21.05.2020**