

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)
AT DAR ES SALAAM**

MISCELLANEOUS CRIMINAL APPLICATION NO. 116 OF 2019

(Originating from Cr. Case No. 619/2010 In the District Court of Kinondoni at Kinondoni)

BONIFASI KISUBI ----- APPLICANT

VERSUS

THE REPUBLIC ----- RESPONDENT

RULING

Date of last Order: 23/03/ 2020.

Date of Ruling: 23/03/2020

E. E. Kakolaki, J

This is an application by the applicant for leave to file Notice of Appeal out of time against the decision in Criminal Case No. 619 of 2010. The same has been brought under section 361(2) of the Criminal Procedure Act, [Cap. 20 RE 2002] Supported by the Affidavit of the said applicant.

The applicant was charged before the Resident Magistrate Court for Dar es Salaam Region at Kisutu for facing an offence of Armed Robbery, Contrary to Section 287A of the Penal Code [Cap. 16 R.E. 2002], convicted and sentence

to serve (30) thirty years imprisonment on the 11/08/2011. Being aggrieved on the 18/08/2011 he lodged a Notice of Appeal to challenge the said decision. However, since then he had never been issued with the copies of Judgment and proceedings for appeal purposes. He decided to file in the High Court Misc. Criminal Application No. 4 of 2018 seeking for High Court Orders to direct the lower court to issue him with copies of judgment and proceedings for appeal purposes relying on the Notice that he had filed earlier. During hearing of the said application the Honourable presiding judge noted some defects on the Notice of Appeal by the applicant as it was referring to Criminal Case No. 1031 of 2010 instead of 619 of 2010. He therefore decided to strike out the application for want of proper Notice. Becoming aware now of the defects of his Notice of Appeal the applicant preferred this application seeking for an extension of time within which to file a proper Notice of Appeal.

Under Section 361(2) of the Criminal Procedure Act, [Cap. 20 RE- 2002], this court has discretion to extend time for the applicant to file the Notice of Appeal upon good cause being shown. The applicant in his affidavit has stated that the wrong number inserted in the defective notice was not an error of his own making as it was out of his control. The application has been objected by the Respondent through Mr. ADOLF KISIMA learned State Attorney.

This court having considered the circumstances of this application and the fact that the application has not been objected for by the Respondent has no reason to deny the application as it is satisfied that good cause has been sufficiently established.

In the circumstances and for the foregoing reasons, I am inclined to allow the application and grant the orders as prayed. The applicant is to file the Notice of Appeal within 10 days from the date of this Ruling. Further to that the

of Appeal within 10 days from the date of this Ruling. Further to that the applicant be supplied with copies of judgment and proceedings for appeal purposes.

It is so ordered.

DATED at DAR ES SALAAM this 23rd day of March, 2020.




E. E. Kakolaki

JUDGE

23/03/2020

Delivered at Dar es Salaam today 23rd day of March, 2020 in the presence of the applicant and Mr. ADOLF KISIMA (SA for the Republic).


E. E. Kakolaki

JUDGE

23/03/2020