

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

Misc. CRIMINAL APPLICATION No. 81 OF 2020

(Arising from the District Court of Muleba at Muleba in Criminal Case No. 91 of 2019)

1. LINUS PIUS 2. DEOGRATIAS DANIEL 3. RWEKAZA SIMON 4. CHRISANT SIMON & 5. RWEYEMAMU JEREMIAH	}	APPLICANTS
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Versus

THE REPUBLIC ----- RESPONDENT

RULING

17/06/2021 & 17/06/2021

Mtulya, J.:

The present five (5) applicants namely, Linus Pius, Deogratias Daniel, Rwekaza Simon, Chrizant Simon and Rweyemamu Jeremiah, were prosecuted, found guilty for armed robbery under section 287A of the **Penal Code** [Cap. 16 R.E 2019] (the Code) and were sentenced to serve thirty (30) years term of imprisonment by the **District Court of Muleba at Muleba** (the District Court) in **Criminal Case No. 91 of 2019** (the case) on 21st April 2020.

Eight (8) days after the conviction and sentence, all five applicants were irritated with the decision hence filed a notice of intention to appeal

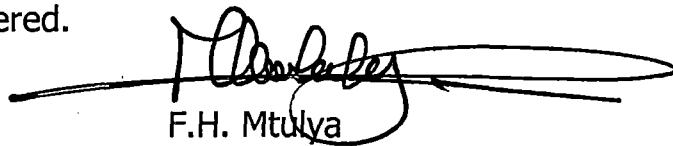
(the notice) in the District Court to dispute the judgment of the District Court in this court. The notice was filed within ten (10) day as per requirement of the law in section 361 (1) (a) of the **Criminal Procedure Act** [Cap. 20 R.E 2019] (the Act). However, the Applicants could not comply with section 361 (1) (b) of the Act as they could not prepare their grounds of appeal in disputing the decision in the case hence on 11th September 2020 decided to prefer the present application seeking enlargement of time to file an appeal out of time.

Today, when the Application was called for hearing the applicants, who were laypersons and did not enjoy legal representation, briefly stated that they failed to appeal within time as they could not access copies of proceedings and judgment of the case to draft petition of appeal. This reasoning was well welcomed by Mr. Juma Mahona, learned State Attorney for the Republic, arguing that the reason constitutes sufficient cause to be considered in an application for enlargement of time, like the present application.

On my part, I have gone through the record and found out that the applicants had filed the notice within time on 29th April 2019 to dispute the decision in the case which was rendered down on 21st April 2019. However, the applicants were prevented to appeal within forty five (45) days to abide with the law in section 361 (1) (b) of the Act as they had

no copies of proceedings and judgment of the District Court in the case to aid in drafting grounds of appeal. I have had an opportunity to peruse the joint affidavit of the applicants in the third and fourth paragraphs and found out that the reason of delay is beyond applicants' control. To my opinion this is a good reason to warrant enlargement of time.

Having said so, and considering the applicants have persuaded this court to see good cause in favour of their application, I have decided to grant the applicants forty five (45) days leave from today to file an appeal in this court without any further delay as per law in section 361 (1) (b) of the Act. It is so ordered.

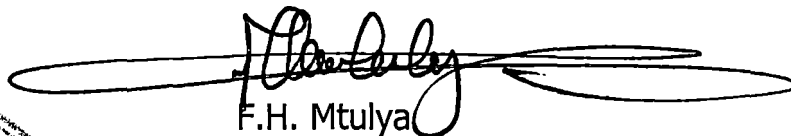


F.H. Mtulya

Judge

17.06.2021

This Ruling was delivered in chambers under the seal of this court in presence of the applicants and in the presence of learned State Attorney Mr. Juma Mahona for the Republic.



F.H. Mtulya

Judge

17.06.2021