

THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

MISC. CRIMINAL APPLICATION NO. 108 OF 2020

(Arising from District Court of Biharamulo at Biharamulo in Criminal Appeal 9/2019)

YOHEL MBASSA.....1ST APPLICANT

BASAGWA NDEBIHILE2ND APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

Date of Ruling: 26/7/2021.

Mwenda, J.

This is an application for extension of time to file an appeal. It is brought by Chamber application under Section 361(2) of the Criminal Procedure Act, [Cap 20 R.E 2019] and supported by the applicants' affidavit.

The applicants were represented by Mr. Dastan, learned advocate while the Respondent (Republic) was represented by Mr. Kahigi, Learned State Attorney.

Before hearing commenced this court was informed that the first applicant is reportedly dead and as such Mr. Dastan, learned advocate prayed for the 1st applicant's application to be dropped and as such this court marked the 1st

applicant's application dropped and I am going to refer the Second applicant as the applicant .

During hearing of this application the applicant had nothing to submit before this Court as he prayed the contents of his affidavit to be considered in making findings. On his part, the learned State attorney did not oppose this application as the delay was caused by the prison authority.

Following submission by both parties, it is evident from the applicant's affidavit that the reasons advanced as a source of delay is the fact that the Prison Officer In-charge appointed to file the already prepared petition of appeal failed to do so as he was assigned another equally important task of supervising the October 2020's General election. Since the Respondent (Republic) is not opposing this application and basing on the reasons advanced by the applicant that the prison authority delayed to file his memorandum of appeal which he had already prepared, this court is convinced that what is stated by the applicant in the affidavit is true as the delay was caused by reasons beyond his control. In the Case of **Yusuph Same and Hawa Dada vs Hadija Yusuph, Civil Appeal No.1 of 2002, CAT (unreported)** the Court of Appeal elaborated on the term of sufficient cause :

***"that it should be given a wide interpretation
to encompass all reasons or causes which***


***are outside the applicant's power to control
or influence resulting in delay in taking
necessary steps"***

With the foregoing reasons this court is of the firm view that the reasons advanced are sufficient to warrant extension of time to lodge the appeal out of time and this application is hereby granted.

The applicant is ordered to file his appeal within 21 days from the date of this ruling.

It is so ordered.





A. Y. Mwenda
Judge

26.7.2021

This Ruling was delivered in chambers under the seal of this court in the presence of Mr. Kahigi for the Republic and in the presence of the Learned Counsel for the Applicant Mr. Danstan Mujaki.




A. Y. Mwenda
Judge

26.7.2021