

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

AT BUKOBA

CRIMINAL APPLICATION NO. 38 OF 2021

(Arising from Ngara District Court Criminal Case No. 75/2020)

JUMA ANACLETH----- APPLICANT

Versus

THE REPUBLIC----- RESPONDENT

RULING

Date of Ruling: 1/9/2021

Mwenda, J.:

Before this court is the application for extension of time to file notice of intention to appeal and appeal out of time. It is filed under S.361 (2) and 392 A (2) of the Criminal Procedure Act, Cap 20 RE 2019. It is also supported by an affidavit sworn by the applicant.

When this matter was called for hearing the applicant appeared in person and the respondent Republic was represented by Mr. Emmanuel Kahigi, Learned State Attorney.

When invited to argue in support of his application the applicant submitted that he was convicted and sentenced by Ngara District Court on 03/2/2021 and

immediately thereafter he prepared his notice of intention to appeal. Shortly, he was transferred to Bukoba Prison and kept waiting for his notice of appeal and court's records to be brought.

He stated that he could not receive the said documents until July 2021 when he was availed with only a copy of proceedings without a notice of appeal which he had previously prepared. He concluded by submitting that this is the reason which pushed him to seek extension of time to file notice and memorandum of appeal.

The respondent republic did not oppose this application. Mr. Kahigi, the Learned State Attorney submitted that they have considered reasons for delay advanced by the applicant and the sentence of life imprisonment he is serving and satisfied that they are good reasons for extension of time.

In this matter, the issue is whether the applicant has advanced good reasons for delay. In his affidavit, the applicant stated that he prepared notice of intention to appeal through the prison's admission office of Ngara but it was never supplied to him until when he was transferred to Bukoba Prison. He added that the reasons for delay were not caused by him as he was transferred to Bukoba which led to his failure to make a follow up on the matter.

Having gone through the affidavit, this Court noted that the same (affidavit) is certified by the Officer in-charge of Bukoba Prison. The said certification reads and I quote;

"Do hereby certify that, this application's (sic) affidavit has been drawn and signed by the applicant who is an inmate in Bukoba Prison order my guidance."

Since this affidavit is certified by the officer in-charge of Bukoba Prison, and since the reasons for his delay to file notice and memorandum of appeal are due to his transfer from Ngara to Bukoba Prison, this court therefore is of the view that what is alleged in the affidavit is nothing but a truth and was out of the applicant's control. That being the case, this court finds merits in the applicant's application and the prayers craved are hereby granted.

The applicant is thus ordered to file notice and memorandum of appeal within 21 days from the date of this ruling.

It is so ordered.




A.Y. Mwenda

Judge

01.09.2021