

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**AT TANGA**

**Misc. CRIMINAL APPLICATION NO. 1 OF 2021**

*(Originating from the Resident Magistrates' Court of Tanga at Tanga in Criminal Case No. 98 of 2017)*

**NASSORO JUMA @ NGURUWE ----- APPLICANT**

**Versus**

**REPUBLIC ----- RESPONDENT**

**RULING**

**06.09.2021 & 06.09.2021**

**F.H. Mtulya, J.:**

Mr. Nassoro Juma @ Nguruwe (the Applicant) was dissatisfied by a decision of the **Resident Magistrates' Court of Tanga at Tanga** (the court) in **Criminal Case No. 98 of 2017** (the case) and wanted to protest the decision in an appeal in this court. To show vigilance on his part, the Applicant filed a notice of intention to appeal within time. However, due to his transfer from Maweni Prisons in Tanga Region to Karanga Prison located at Moshi District in Kilimanjaro Region, and failure to be supplied with copies of judgment and proceedings within time, he failed to lodge his appeal within statutory time.

Following the two displayed reasons in his affidavit and being found out of statutory time, the Applicant lodged the present

application seeking extension of time. Today when the application was scheduled for hearing, the reasons were well received and appreciated by Mr. Kusekwa, learned State Attorney for the Republic (the Respondent) who supported the application. I have perused the record of this application and found the two reasons of delay displayed in the 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> paragraphs of the Applicant's Affidavit, namely: transfer of the Applicant from Maweni Prison located at Tanga District in Tanga Region to Karanga Prison at Moshi District of Kilimanjaro Region.

The law regulating enlargement of time in applications like the present one was enacted in section 361 (2) of the **Criminal Procedure Act** [Cap. 20 R.E. 2019] (the Act), which require good cause be registered by applicants to persuade this court to grant their applications. It is fortunate that the enactment has already received precedents of our superior court in **Eliah Bariki v. Republic**, Criminal Appeal No. 321 of 2016 and **Republic v. Yona Kaponda & Nine Others** [1985] TRL 84. In the present application, the Applicant has registered two (2) causes of delay in the 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> paragraphs of his affidavit, namely: first, transfer of prisons and second, delay in receiving copies of judgment and proceedings.

My perusal in the registry of this court on the subject shows that the two reasons have already been determined in the precedent of **Bakari Choma v. Republic**, Misc. Criminal Application No. 12 of 2021 and **Byera Julius @ Buton v. The Republic**, Misc. Criminal Application No. 13 of 2021. It is also fortunate there is precedents of the Court of Appeal that supports the reasons in **Yusufu Hassan v. Republic**, Criminal Application No. 50/12 of 2017 and this court in the precedents of **Mosses William v. Republic**, Misc. Criminal Application No. 61 of 2020, **Linus Pius & Four Others v. Republic**, Misc. Criminal Application No. 81 of 2020, and **Tuombe John @ Sungura v. Republic**, Misc. Criminal Application No. 18 of 2021.

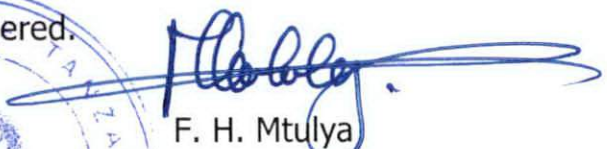
In any case, applicants who justify difficulties caused by the third party in authority or factors beyond their control may be considered for enlargement of time to file their appeals out of time (see: **Foreign Mission Board of Southern Baptist Convention v. Alexander Panomaritis** [1984] T.L.R 146, **Benezeth Mwebesi & Two Others v. Baraka Peter**, Misc. Civil Application No. 46 of 2019 and **Linus Pius & Four Others v. Republic** (supra).

Having said so, and considering the Applicant has produced good reasons well known from the practice of this court and our superior court, I have decided to grant the Applicant ten (10) days

leave to file notice of intention to appeal in this court and to lodge an appeal as per requirement of the law regulating appeals from subordinate courts to this court without any further delay.

It is so ordered.



  
F. H. Mtulya

**Judge**

06.09.2021

This Ruling is delivered in Chambers under the seal of this court in the presence of the Applicant Nassoro Juma @ Nguruwe through Video Conference in Karanga Prison at Moshi and in the presence of the learned State Attorney Mr. Paul Kusekwa for the Respondent.



  
F. H. Mtulya

**Judge**

06.09.2021