

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 82 OF 2021

*(Originating from Arusha Resident Magistrate's court at Arusha in Economic Crimes
Case No. 17 of 2017)*

DISMAS SAID @DEDO.....APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

10/11/2021 & 10/11/2021

KAMUZORA, J:

~~The applicant preferred this application for extension of time to file~~
the notice of appeal out of time so that he could appeal out of time
against the decision of the Resident Magistrates Court of Arusha in
Economic Crimes Case No 17 of 2017.

The application was brought by way of a chamber summons under
section 361(2) of the Criminal Procedure Act (Cap 20 R. E 2002) and
was supported by the affidavit deposed by the applicant himself.

The brief background of the matter is such that, the applicant was charged of the offence of unlawful possession of government trophy c/s 86(1)(2) (c) (ii) of the Wildlife Conservation Act No 05/2009 read together with paragraph 14 of the 1st Schedule to and section 57 (1) both of the Economic and Organised Crimes Control Act (Cap 200 R. E 2002) as amended by section 16(a) of the Written Laws (Misc. Amendment) Act No. 03/2016.

It was stated that, on 25th May 2017 at NAFCO within Monduli District in Arusha Region accused/applicant was found in unlawful possession of one Zebra head, 2hooves, one tail equivalent to one zebra valued at Tshs 2,661,600/=. The applicant denied the charge laid against him and the matter went to full trial whereas the trial court found the applicant guilty, convicted and sentenced him to serve twenty years imprisonment. Aggrieved by the conviction and sentence, the applicant intends to appeal but since he delayed in filing the appeal, he preferred this application so that he can appeal out of time.

On the date scheduled for the parties to appear, the applicant appeared in person and informed that court that after he was sent away from Arusha after he was sentenced thus, he was unable to appeal on time.

The respondent Republic was represented Ms Lilian Mmasi the Senior learned State Attorney. Ms. Mmasi informed this court that, the republic did not intend to file the counter affidavit as they intended not to contest the application. She was of the view that much as the applicant was convicted and sentenced by the Resident Magistrate Court of Arusha but shifted to Karanga prison, there was a possibility for him to delay in appeal process.

The affidavit of the applicant reveal that the filing of applicant's appeal was delayed by the prison office of Karanga prison. He deposed that after the conviction and sentence was passed against him, he was transferred to Karanga Prison and that the delay of lodging the memorandum of appeal was not his fault as the process was being done by the admission officer of Karanga Prison and that, what happened was out of the applicant's ability and control.

I have considered the chamber application, the affidavit in support of the application and the fact that the senior State Attorney acting for the interest of the republic did not contest the application. On that basis, this court do hereby grant the application for extension of time for the applicant to appeal out of time. The applicant is granted leave to file the appeal to this court within thirty days (30) from today.

Application allowed.

DATED at **ARUSHA** this 10th Day of November 2021




D. C. KAMUZORA

JUDGE