

**THE UNITED REPUBLIC OF TANZANIA**

**JUDICIARY**

**IN THE HIGH COURT OF TANZANIA**

**(IRINGA DISTRICT REGISTRY)**

**AT IRINGA**

**MISC. CRIMINAL APPLICATION NO 10 OF 2022**

*(Originating from Ludewa District Court*

*Criminal Case No. 02 of 2020)*

**ZAKAYO THOMAS MLELWA ----- APPELLANT**

**VERSUS**

**REPUBLIC ----- RESPONDENT**

Date of Ruling: 25/4/2022

**RULING**

**MATOGOLO, J**

The applicant Zakayo Thomas Mlewa has filed to this court an application asking this court to extend time to him so that he can lodge Notice of intention to appeal and appeal out of time. The application is by chamber summons made under Section 361(1) of the Criminal Procedure Act Cap 20 R.E. 2019 (The CPA). The same is supported by an affidavit of the applicant in which he stated the reasons for his delay to include the fact that after being convicted and sentenced, he expressed his desire to appeal and prepared Notice of appeal which was submitted together with a

letter requesting for certified copies of judgment and proceedings at the prison admission office in time. But he was informed by the admission officer Ruanda prison that the appeal could not be lodged since the Notice of intention to appeal was not lodge in court in time. He therefore prepared and lodged an application for extension of time to lodge Notice of appeal and to appeal out of time but the same was struck out for being defective. He has now filed this application for extension of time to file Notice of appeal and to appeal out time.

Before this court the applicant explained that his delay was not intentional and of his own making. But it was due to the change of prison from Luanda prison to Njombe prison. Again from Njombe prison to Dodoma and later to Ruanda prison Mbeya. Ms. Jackline Nungu did not raise any objection. She conceded to the application on the ground that the delay was beyond the applicant's control. Being a lay man not conversant with procedural law he depends on the prison authorities to prepare and lodge his appeal in court.

I concur with the learned Stated Attorney that the grounds of delay applicant has submitted are sound one. He pointed out in his affidavit as well as in his submission before this court, the applicant expressed his intention immediately after being convicted and sentenced by lodging Notice of appeal in time. But due to transfer processes from one prison to another the appeal documents were not lodged in time. That act necessitated him to apply for extension of time, but that application was struck out for being defective. The applicant did not despair, he filed the present application in which he has advanced reasonable cause for his

delay. I grant this application. The applicant to file Notice of appeal within 10 days from today and to lodge his appeal within thirty (30) days from today.

It is so ordered.



*F. N. Matogolo*  
**F. N. MATOGOLO**  
**JUDGE**  
**25/04/2022**