

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

DISTRICT REGISTRY

AT TABORA

MISC. CRIMINAL APPLICATION NO. 10 OF 2022

(Originating from Igunga District Court in Criminal Case No. 10 of 2021)

BERNARD S/O MSAFIRI.....APPELLANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date: 18/07/2022 & 22/7/2022

BAHATI SALEMA, J.:

Before this court, the applicant **BERNARD S/O MSAFIRI** prays to this court for an extension of time to lodge both the notice of appeal and petition of appeal against the decision of the District Court of Kaliua, Tabora in Criminal Case No.10 of 2021.

The application has been brought under section 361(2) of the Criminal Procedure Act, Cap. 20 and it is supported by an affidavit.

It is deposed in paragraphs 3, 4,5 and 6 of the affidavit in support of the application that he gave notice of intention to appeal to the trial court as required by law on 20/12/2021 while at Urambo Remand Prison at Urambo. , on 29/12/2021, he was relocated to Uyui central Prison at

Tabora for want of maximum prison due to the severity of the sentence imposed.

While at Uyui prison, on 07/05/2021. I received the copy of the judgment, after several attempts to request the same from the trial court.

After receiving the copy of the judgment, he sought guidance from the admission office of Uyui central prison on how to appeal since he was not conversant with the law.

When asked to produce a copy of the notice he gave to the trial court to be attached with the petition of appeal for registration before the registry of this court, he couldn't because all matters ad causas of action after my conviction were handled by admission officer at Urambo prison. That, efforts to trace the missing document back to the trial court were barren of fruit.

Hence necessitated the applicant for an extension of time to this court, which vide Misc. Criminal Application No.10 of 2022.

When the matter was called on for hearing, the applicant was unrepresented while Mr.Merito Ukongoji learned State Attorney for the Republic.

The applicant being layperson prayed to this court to adopt the affidavits to form part of his application.

In reply, the respondent supported the application. The respondent submitted that the applicant's affidavits in paragraphs 3,4,5,6 and 7 have provided sufficient reasons to grant the application. He prayed to this court to grant the application as prayed.

In rejoinder, the applicant had nothing more to add.

Having carefully heard submissions from both parties, the issue is whether the application has merit.

Section 361(2) of the Criminal Procedure Act, Cap. 20 provides for the extension of time upon sufficient reasons.

The court has gone through para 3,4, 5, and 6 of the affidavit and found that the applicant has shown sufficient reasons for the extension of time. As rightly conceded by the State Attorney, the applicant through his affidavit has adduced sufficient cause for his delay.

Therefore, this court is satisfied that the applicant has shown sufficient reasons for extension of time and it is hereby granted. The applicant is to lodge a notice of appeal 10 days and a petition of appeal within 30 days from the date of the ruling.

Order accordingly.

A. A. Bahati

A. A. BAHATI

JUDGE

22/7/2022

Ruling delivered in chamber on this 22nd July, 2022 in the presence of both parties via virtual court link.

A. Bahati Salema

A. BAHATI SALEMA

JUDGE

22/07/2022

Right of Appeal fully explained.

A. Bahati Salema

A. BAHATI SALEMA

JUDGE

22/07/2022

