

**IN THE HIGH COURT OF TANZANIA
TABORA DISTRICT REGISTRY
AT TABORA**

DC. CRIMINAL APPEAL NO. 35 OF 2021

[Originating from Nzega District Court Criminal Case No. 90 of 2021]

SENI S/O SAMEZI 1ST APPELLANT
SALIGA S/O MADUKA 2ND APPELLANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of Last Order: 22/08/2022

Date of Delivery: 22/08/2022

AMOUR S. KHAMIS, J:

When hearing of this appeal was about to start Ms. Alice Thomas, learned State Attorney for the Republic drew attention of the Court on defects in the purported notice of appeal.

She contended that the notice of appeal attached to the Joint Petition of appeal was neither presented in Court nor signed by the court's Registry Officer.

Seni s/o Semezi, the first appellant herein conceded to the omission and attributed the weakness to the prison authorities at Nzega Prison.

He prayed for leniency of the Court on the ground that the omission was not his.

I have examined the purported notice of appeal issued by the appellant.

The notice was signed by Seni s/o Semezi on 14 May 2021 and counter signed by the Commanding Officer, Nzega Prison on the same date.

However the said notice was never transmitted to Court for onward filing and stamping.

Section 361(1) (a) of the **CRIMINAL PROCEDURE ACT CAP 20, R.E 2022** provides that no appeal shall be entertained unless the appellant has given notice of intention to appeal within ten (10) days from the date of the finding, sentence or order, or in case of a sentence of corporal punishment only, within three (3) days of the date of such sentence.

In the present case, no notice was ever presented in Court as the law requires and therefore Section 361 (1) (a) of the **CRIMINAL PROCEDURE ACT** was not complied with.

For the stated reason, the application is defective and thus struck out.

That notwithstanding and for the interests of justice, under Section 361(2) of the **CRIMINAL PROCEDURE ACT, CAP 20, R.E 2022**, the appellant Seni Semezi is hereby granted leave to lodge a

notice of appeal within ten (10) days and a petition of appeal within forty five (45) days from date of delivery.

It is so ordered.


AMOUR S. KHAMIS

JUDGE

22/8/2022

ORDER

Ruling delivered in Chambers in presence of Ms. Alice Thomas State Attorney for the Republic and the first appellant in person.

Right of Appeal is Explained.




AMOUR S. KHAMIS

JUDGE

22/8/2022