

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[IN THE DISTRICT REGISTRY OF ARUSHA]

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 56 OF 2022

(Originating from Babati District Court Criminal Case No. 24 of 2020)

MATHIAS HERMAN.....1ST APPLICANT

ROJAS APOLINARY.....2ND APPLICANT

VERSUS

THE D. P. P.....RESPONDENT

RULING

01st & 22nd August 2022

TIGANGA, J

In this application the applicants, Mr. Mathias Herman and Rojas Apolinary filed this application under Section 361(2) of the Criminal Procedure Act [Cap 20 R.E 2019] (now R.E 2022). They prayed this court to extend time within which to file the Notice of Appeal, out of time and having so allowed them to file the Notice of Appeal to allow them to file the appeal out of time to challenge the decision of the District Court of Babati in Criminal Case No. 24/2020.

They filed the application via the chamber summons supported by the affidavit sworn by both applicants setting forth the grounds for the application.

The main ground for the application is that, the applicants were not supplied with the copy of the proceedings in time and even after they had been supplied the documents, they could not, for the reasons beyond their ability, file the appeal or commence the appeal process within time as they were in prison and without reliable legal service.

When the application was served to the respondent, Ms. Akisa Mhando, learned Senior State Attorney who appeared representing the respondent Republic, did not file the counter affidavit, on the reasons that, they did not intend to oppose the application.

I have taken time to pass through the application at hand and the supporting affidavit. I am satisfied that, the applicants, being prisoners who were held in jail to serve their jail sentence imposed to them by the trial Court, who were not supplied the necessary documents for appeal purpose, had and have established good reasons for delay. These reasons as readily conceded by the learned Senior State Attorney, entitle them extension of time to file their Notice of appeal and an appeal out of time.

That said, I allow the application and give extension of time for the application to file the notice of appeal within 14 days from the date of this order. The appeal also be filed within 21 days from the date of this order.

It is accordingly ordered



DATED at **ARUSHA**, this 22nd August, 2022.

A handwritten signature in black ink, appearing to read "J. C. Tiganga", written over a horizontal line.

J. C. TIGANGA

JUDGE