

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

MISC. CRIMINAL APPLICATION NO. 73 OF 2020

(Arising from Criminal Case No. 21 of 2020 in the District Court of Kondoa at Kondoa)

TWALIB OMARY SELEMAN APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

17/2/2022 & 30/3/2022

RULING

MASAJU, J

The Applicant, Twalib Omary Seleman, was charged with, and convicted of the offence of UNLAWFUL GRAZING OF LIVESTOCK IN A GAME RESERVE contrary to sections 18 (2) (4) and 114 (1) (a) of the Wildlife Conservation Act, No. 5 of 2009 in the District Court of Kondoa at Kondoa. He was sentenced to pay a Fine of TZS 400,000/= in default to serve one year in prison. In addition thereof, the Applicant's twenty (20) heads of cattle were forfeited to the Government of the United Republic of Tanzania pursuant to section 111(1) (a) of the Wildlife Conservation Act, 2009.

The Applicant paid the Fine accordingly but he was late in filing the appeal in the Court against the conviction, sentence and forfeiture order. Hence this Chamber Summons Application made under section 361(2) of the Criminal Procedure Act, [Cap. 20 RE 2019] for leave for extension of time to

file his intended appeal out of time. The Chamber Summons Application is supported by the Affidavit affirmed by the Applicant himself. The affidavit gives the background and the reasons for the Application. The Respondent Republic had filed a Counter Affidavit contesting the Application, but upon reflection, she changed that position and prayed the Court to expunge the said Counter affidavit from the record of the Court, for she was no longer contesting the application.

When the Application was heard before the Court today the 30th day of March, 2022, the layman Applicant appeared in person. He adopted the Chamber Summons and the Affidavit thereof to form his submissions in support of the Application in the Court. He prayed the Court to grant the Application accordingly.

The learned State Attorney, Ms. Neema Taji, who appeared for the Respondent Republic did not contest the Application, reasoning that the Application has been filed under appropriate enabling provision of the law and that the reasons thereof were valid.

The Court is of the considered position that since Applicant is entitled to apply for leave to file an appeal out of time under section 361(2) of the Criminal Procedure Act, [Cap. 20 RE 2009] in pursuit of the right to appeal as per section 359 of the Criminal Procedure Act, [Cap. 20 RE 2019] and Article 13(6) (a) of the Constitution of the United Republic of Tanzania, and the reasons adduced by the Applicant in his Affidavit that upon the sentence and forfeiture of his cattle he was not mentally fit as he agonized for the loss of his cattle, hence late in filing the appeal in time; the competent Application is hereby granted accordingly.

The intended appeal, if any, by the Applicant shall be filed in the Court accordingly within forty five (45) days of this order.


GEORGE M. MASAJU
JUDGE
30/3/2022

