

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

MISC. CRIMINAL APPLICATION NO. 13 OF 2022

*(Original from NZEGA District Court Economic Case No. 2 of 2021)*

DANIEL KAWAWA.....APPLICANT

VERSUS

THE REPUBLIC .....RESPONDENT

RULING

*Date: 19/9/2022&23/9/2022*

BAHATI SALEMA, J.:

Before this court, the applicant **DANIEL KAWAWA** prays to this court for an extension of time to lodge a petition of appeal against the decision of the Tabora District Court, before Hon. Mzige,S.I dated 23/12/2021 in Criminal Case No. 17 of 2021 and any other order the court deems proper to grant.

The application has been brought under section 361(2) of the Criminal Procedure Act, Cap. 20[R.E 2022] and it is supported by an affidavit of Daniel Kawawa, Elson Mwita Otiende and Elias Hezron.

It is deposed in paragraphs as can be summarized in the affidavit that the applicant was aggrieved with the said decision and requested the

prison officer to lodge a notice of intention to appeal. Being an inmate and a layman he waited for further steps believing his intention to appeal was taken care of but that did not happen.

On 25/2/2022 he contacted one Elson Mwita Otiende and requested him to seek legal representation and pursue the matter.

On 28/2/2022 he received a letter from one Mr. Elias Hezron legal counsel informing him that he had been engaged by his relative to represent in pursuing his appeal who advised him to seek leave of this court to file an appeal out of time.

He stated that failure to appeal in time was occasioned by the fact that he was in prison waiting to be availed copies of the proceedings and judgment which were not availed to him in time and also the judgment in question was tainted with illegality that the trial magistrate had no jurisdiction to impose a sentence of 5 years imprisonment.

Hence necessitated the applicant for an extension of time to this court, which vide Misc. Criminal Application No.13 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 affidavit to form part of his application. He prayed to this court to grant the application as prayed.

Responding, the State Attorney for the respondent supported the application for an extension of time although he found in the chamber application and affidavit some typos that can be corrected through the overriding objective principles.

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 gives power to the court to extend time upon sufficient reasons.

In the matter at hand, the court has gone through paragraphs 3, 4, 5 6 and 7 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 an extension of time and it is hereby granted. The applicant is to lodge a petition of appeal within 10 days and a petition of appeal within 30 days.

Order accordingly.



**A.BAHATI SALEMA**  
**JUDGE**  
**23/9/2022**

Ruling delivered under my hand and seal of the court in the Chamber, this 23<sup>rd</sup> day of September, 2022 in presence of both parties, via virtual Court.



**A.BAHATI SALEMA**  
**JUDGE**  
**23/9/2022**

Right to Appeal is hereby explained.



**A.BAHATI SALEMA**  
**JUDGE**  
**23/9/2022**