

THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

MISC. CRIMINAL APPLICATION NO. 20 OF 2022

(Arising from the District Court of Karagwe at Kayunga in Criminal Case No. 244 of 2019)

SARAPION PHIDEL----- APPLICANT

VERSUS

THE REPUBLIC-----RESPONDENT

RULING

Date of Ruling: 30.09.2022

A.Y. Mwenda, J.

Before this court is an application for extension of time to file notice of intention to appeal and appeal out of time. It is brought under section 361(2) of the Criminal Procedure [CAP.20 R.E 2019]. It is also supported by an affidavit sworn by the applicant.

During the hearing of this application the applicant appeared in person through virtual facility linked with Lindi Prison while the respondent (Republic) was represented by the learned Senior State Attorney Mr. Kanisius Nduguru.

When invited to argue in support of his application, the applicant submitted that he has nothing to add. He just prayed for this court to consider the contents of his affidavit while making its decision.

On the other hand, the respondent republic did not oppose this application. Mr. Ndunguru, learned state attorney submitted that, having gone through the

applicant's application and the reasons for the delay as covered in the affidavit, he is satisfied that there are sufficient reasons to grant extension of time. He thus prayed this application to be granted.

Having heard the submissions by both parties, the issue is whether or not the applicant has advanced sufficient reasons for the delay.

From the records the applicant through his affidavit stated that after he had prepared a notice of intention to appeal and petition of appeal, he forwarded them to the prison admission's office for filing purposes before the High Court's registry. He also stated that later on he was informed by the admission office that the notice of appeal is nowhere to be seen and he was advised to apply for extension of time to lodge notice of appeal and petition of appeal out of time. He then prayed to be granted extension of time so as to file notice of intention to appeal and appeal out of time.

Having gone through the affidavit, this court noted that the same is certified by the officer in charge of Lindi prison. Since this affidavit is certified by the officer in charge of Lind Prison, this court therefore is of the view that what is stated in affidavit is nothing but the truth and therefore the delay was out of the applicant's control. That being the case, this court finds merits in the applicant's application and the prayers craved are hereby granted.

The applicant is thus ordered to file notice of intention to appeal and memorandum of appeal within 21 days from the date of this ruling.

It is do ordered.




A.Y. Mwenda

Judge

30.09.2022

This ruling is delivered in chamber under the seal of this court in the presence of the applicant through virtual facility link and in the presence of Mr. Kanisius Ndunguru learned state attorney for the republic.




A.Y. Mwenda

Judge

30.09.2022