

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(SUMBAWANGA DISTRICT REGISTRY)

AT SUMBAWANGA

MISC. CRIMINAL APPLICATION NO. 10 OF 2022

(C/O Nkasi District Court Economic Crimes Case No. 12 of 2019)

(Mwakibibi, N.S., RM)

ISACK S/O KAPESA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date: 28 & 28/03/2022

NKWABI, J.:

The applicant is praying for extension of time within which to lodge a notice of intention to appeal to this court out of time. The District Court of Nkasi convicted and sentenced the applicant to five years imprisonment for unlawful possession of Government Trophies contrary to section 86 (1) and (2) (c) (ii) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 (d) of the first schedule to and sections 57 (1) and 60(2) of the Economic and Organized Control Act Cap. 200 R.E. 2019.

The application is brought under section 361(1) of the Criminal Procedure Act Cap. 20 R.E. 2019. It is supported by the affidavit duly sworn by the applicant as well as that of the Prison officer in-charge.

In the unopposed applicant's affidavit, the applicant avers that the delay in lodging his notice of intention to appeal was due to the delay in being supplied with the copy of the judgment and several prison's transfers upon him. He blamed human imperfectness and that was out of his control. There is also an affidavit duly sworn by the officer in-charge of Sumbawanga prison certifying that the applicant was transferred from one prison to another according to the prison timetable.

At the hearing of this application, the applicant appeared in person while the respondent was efficiently represented by Mr. Simon Peres, learned Senior State Attorney. In the course of the hearing, the applicant simply said that he was not satisfied with the decision of the trial court. He prayed this court to look at the matter. Mr. Peres for the respondent urged this court to dismiss the application since the applicant does not know what he had come to do to the court.

In rejoinder, the applicant invoked the court to look at him and consider him as he was not satisfied with the sentence.

There is a clear position of the law to the effect that an applicant, in an application of this kind, has to put before the court materials to enable the court to grant him extension of time to do what ought to be done but that time had lapsed. This is as per **Alliance Insurance Corporation Ltd vs Arusha Art Ltd, Civil Application No. 33 of 2015** CAT (unreported):

"Extension of time is a matter for discretion of the Court and that the applicant must put material before the Court which will persuade it to exercise its discretion in favour of an extension of time."

The position ensures that no frivolous applications are granted to the detriment of the trite law that litigation has to come to an end as held in **Stephen Masato Wasira v Joseph Sinde Warioba and the Attorney General [1999] TLR 334.**

In this application, the applicant made unsubstantiated claims that he was being transferred from one prison to another before being supplied with a copy of the judgment. However, the copy of a judgment has nothing to


do with his lodging intention of appeal which ought to be filed within 10 days of the delivery of the judgment while a copy of the judgment could be perfectly supplied even after those ten days. He has thus failed to advance sufficient reasons for the delay. In essence, the applicant has failed to account for each day of the delay.

The officer in-charge of the prison, in his affidavit shows that his office could have been slopy in handling the matter by transferring the applicant from one prison to another without him lodging the notice of intention to appeal to this court, but sloppiness and ignorance of the law have never been good cause for extension of time. See for instance **Ally Kinanda & 2 Others vs. The Republic, Criminal Application No. 1/2016**, CAT, (unreported).

It is for the above reasons that this application is found to have no merits. I dismiss it. It is so ordered.

DATED at **SUMBAWANGA** this 28th day of March 2022.




J. F. NKWABI
JUDGE