

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(SUMBAWANGA DISTRICT REGISRTY)**

AT SUMBAWANGA

MISC. CRIMINAL APPLICATION NO. 20 OF 2021

(C/O Kalambo District Court Criminal Case No. 2 of 2019)

(Sabuni, M.I., RM)

LINUS S/O MAYOWA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date: 29 & 29/03/2022

NKWABI, J.:

After a lapse of about two years, the applicant filed this application praying for extension of time within which to file a notice of intention to appeal to this court out of time. The District Court of Kalambo at Matai convicted and sentenced the applicant to thirty years imprisonment for rape offence which is contrary to section 130(1) and (2) (e) read together with section 131(1) of the Penal Code Cap 16 R.E. 2002 which now it is Revised Edition, 2019.

The application is brought under section 361(2) 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 attests 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 which was out of his control, he being a prisoner. There is also an affidavit duly sworn by the officer in-charge of Mollo prison certifying what was averred by the applicant.

Meanwhile, in the hearing of this application, the applicant appeared in person while the respondent was ably represented by Mr. Simon Peres, learned Senior State Attorney.

In the course of the hearing, the applicant said that he filed this application for extension of time because he was not satisfied with the decision of the trial court. He adopted his reasons for application found in the affidavit. It is that the trial court delayed to supply him with the copy of the judgment. Mr. Peres for the respondent urged this court to dismiss the application since the applicant does not know whether this is an

appeal or an application for extension of time to lodge the notice of intention to appeal. The applicant had nothing in rejoinder.

I have carefully considered this application, I am of a considered view that delay in being supplied with the copy of a judgment has nothing to do with his lodging intention of appeal out of time 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. That he is not satisfied with the decision of the trial court is not a sufficient reason for extension of time. Further, I note that the affidavit of the officer in-charge of the prison, has nothing in substance to advance the applicant's application

Let the applicant be reminded that litigation has to come to an end as held in **Stephen Masato Wasira v Joseph Sindi Warioba and the Attorney General [1999] TLR 334.**

That said, I dismiss the application since it is wanting in merits.

It is so ordered.

DATED at **SUMBAWANGA** this 29th day of March 2022.



J. F. NKWABI

JUDGE