

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

**MISCELLANEOUS CRIMINAL APPLICATION NO. 105 OF 2021**

*(Originating from Resident Magistrate Court of Arusha Economic Case No. 19 of 2020)*

**RAMADHANI ABRAHAMAN @ KITINA.....1<sup>ST</sup> APPLICANT**  
**MOHAMED HAMZA NTUKO .....2<sup>ND</sup> APPLICANT**  
**NURUANA HUSSEIN @ MWAJUMA HUSSEIN @ MWAKU.....3<sup>RD</sup> APPLICANT**  
**SALUM JUMA @ GUMBERI .....4<sup>TH</sup> APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

**30/03/2022 & 30/03/2022**

**GWAE, J**

The applicants named herein above have brought this application under section 361 (2) of the Criminal Procedure Act, Cap 20, Revised Edition, 2019 (CPA) seeking an order of the court extending time to appeal out of time against the decision of the Court of Resident Magistrate Court of Arusha at Arusha.

The applicants were charged with, prosecuted and eventually on the 5<sup>th</sup> October 2021 they were convicted of the offence of the offence of unlawful possession of Government Trophy and were sentenced to twenty (20) years imprisonment. Subsequently, they timely filed a notice of appeal in the trial court on the 11<sup>th</sup> October 2021 and they filed this application on

the 24<sup>th</sup> November 2021 as there was lapse of 45 days as required under section 361 (1) (b) of the CPA.

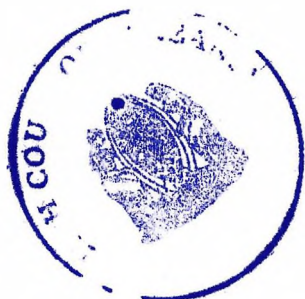
Reason given for the applicants' delay of about four days explained to be absence of a prison officer who was preparing and assisting them to file their petition of appeal. More so, the applicants were not notified of such absence and status of their appeal.


When this application was called on for hearing, the applicants and Republic were duly represented by Mr. Jukius Lukumay (adv) and Ms. Makala (SA). The applicants' advocate asked this court to grant the application so that the applicants may appeal whilst the respondent's counsel did not resist this application.

Considering the fact that the applicants were in prison as convicts and the reason that the one who was assisting them went for his further studies without their knowledge as well as the fact that, this application was promptly preferred, I am therefore judicially justified to grant this application as prayed (See **Mwita s/o Mhere and Ibrahim Mhere v. Republic** (2005) TLR 107).

Basing on the foregoing reasons, the applicants' application is therefore granted. The applicants are given **fourteen (14)** days from the date of this order within which to file their Petition of Appeal to this court.

It is so ordered.



  
M. R. GWAE  
JUDGE  
30/03/2022