

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

CRIMINAL APPLICATION NO. 102 OF 2021

(Originating from Arusha Resident Magistrate's court in Economic Crimes Case No. 111 of 2017)

ALLEN STEPHANO KIMARO.....APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

29/03/2022 & 29/03/2022

KAMUZORA, J:

The Applicant preferred this application under the provision of section 361 (2) of the Criminal Procedure Act Cap 20 RE 2002 praying for extension of time to file a notice of appeal and an appeal to this court out of time against the judgment of the Resident Magistrate Court of Arusha in Economic crimes case No. 111 of 2017. The application was brought by way of chamber summons and supported by the affidavit deposed by the Applicant.

Briefly, the Applicant was charged for three counts; the first count is unlawful possession of Government trophy contrary to section 86 (1)

and (2) (c)(ii) of the Wildlife Conservation Act, No.5 of 2009 read together with Paragraph 14 of the 1st Schedule to, and sections 57 (1) and 60 (2) of Economic and Organised Crimes Control Act, [Cap 200 RE 2002] as amended by section 16 (a) and 13 (b) of the (Written Laws Miscellaneous Amendment) Act, No. 3 of 2016. The second count is Unlawful hunting of specific scheduled animal without permit contrary to section 47 (a) (c) of the Wildlife Conservation Act, No.5 of 2009 read together with Paragraph 14 of the 1st Schedule to, and sections 57 (1) and 60 (2) of Economic and Organised Crimes Control Act, [Cap 200 RE 2002] as amended by section 16 (a) and 13 (b) of the (Written Laws Miscellaneous Amendment) Act, No. 3 of 2016. The third count is unlawful possession of weapon in certain circumstances contrary to section 105 of the Wildlife Conservation Act, No.5 of 2009 read together with Paragraph 14 of the 1st Schedule to, and sections 57 (1) and 60 (2) of Economic and Organised Crimes Control Act, [Cap 200 RE 2002] as amended by section 16 (a) and 13 (b) of the (Written Laws Miscellaneous Amendment) Act, No. 3 of 2016.

The facts reveal that, on 26th Day of October 2017, at Endarakwai area within Siha District in Kilimanjaro Region the Applicant unlawful hunted the wildebeest and was found in unlawful possession of Wildebeest tail and limb equivalent to one killed Wildebeest valued at USD

650 which is equivalent to Tshs. 1,477,216.58 the property of the United Republic of Tanzania without a permit from the Director of Wildlife. The facts also reveal that the Applicant was also found in possession of weapon to wit; one snare in circumstances which raised reasonable presumption that he had used it in commission of offences under the Wildlife Act, No. 5 of 2009.

The trial court convicted the Applicants for all three counts as charged and sentenced him to twenty (20) years imprisonment for each count and ordered the sentence to run concurrently. The Applicant brought the present application praying for an order of extension of time to appeal against the decision of the Resident Magistrate court and supported the application with an affidavit deponed by him.

In the affidavit in support of the application it was deponed that, after the Applicant was sentenced to prison, he immediately lodged a notice of appeal aiming at challenging the decision of the Resident Magistrate Court but the officer who was in charge did not give him a copy of the notice of appeal. That, the Applicant was then transferred to another prison in Moshi until 2020 when he was sent back to Arusha prison. That, on 2021 he was served with a copy of proceedings and judgment but upon request of the notice of appeal so as to finalise appeal

process, it was nowhere to be found. That, as he could not lodge an appeal without a notice of appeal, the Applicant preferred the present application for extension of time to lodge a fresh notice of appeal and an appeal out of time. The Applicant also deponed that the event which led to this situation was out of his ability as he has no means to hire a private lawyer and he is entirely depending on the assistance from the prison authority.

On the date scheduled for hearing, the Applicant appeared in person and Ms. Tusaje Samwel, State Attorney appeared for the Respondent Republic. When parties were called upon to address the court on the application, Ms. Tusaje Samwel, State Attorney informed this court that, the Republic did not intend to contest the application. As the application was not contested, the Applicant prayed for the application to be granted.

I have considered the chamber application, the affidavit in support of the application and the fact that the State Attorney acting for the interest of the Republic did not contest the application. As the application is not contested, this court do hereby grant the Applicant's prayer. I therefore grant the application for extension of time for the Applicant to lodge a notice of appeal and an appeal to this court out of time. The

Applicant shall file the appeal within thirty days (30) from today.

Application allowed.

DATED at **ARUSHA** this 29th Day of March 2022.



A handwritten signature in blue ink, appearing to read "D. C. Kamuzora", is written over a circular stamp.

D. C. KAMUZORA

JUDGE

