

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF MUSOMA

AT MUSOMA

Misc. CRIMINAL APPLICATION No. 23 OF 2022

(Arising from the District Court of Serengeti at Mugumu in Economic Case No. 109 of 2019)

JUMA MOROKA MASYORA APPLICANT

Versus

REPUBLIC RESPONDENT

RULING

06.06.2022 & 06.06.2022

Mtulya, J.:

The Court of Appeal on 18th February 2020 had considered an application for enlargement of time for Mr. Yusufu Hassan (applicant for review), who was in prison custody. In the application, which was cited as **Yusufu Hassan v. Republic**, Criminal Application No. 50/12 of 2017 (the criminal application), the applicant for review had sought an order of the Court of Appeal for enlargement of time within which to lodge an application for review out of time. The basis of the application was the decision of the full Court of the Court of Appeal in **Criminal Appeal No. 152 of 2008** decided on dated 12th March 2010.

After a full hearing of the criminal application for enlargement of time for the applicant of review, the Court of Appeal decided in his favour and in exercise of its discretionary mandate, the Court

enlarged time for the applicant for review to lodge his application for review out of time within sixty (60) days from the date of delivery of the Ruling. The Court at page 7 of the Ruling reasoned that:

*I am mindful of the position taken by the Court in various decisions where the Court considered the situation of prisoners that they are not free agents who can freely make follow-ups on their matters; and thus granted applications for extension of time. See for instance decisions in **Otieno Obute v. The Republic**, Criminal Application No.1 of 2011; **Joseph Sweet v. The Republic**, Criminal Appeal No. 11 of 2017 and **Fabian Chumila v. The Republic**, Criminal Application No. 6/10 of 2019.*

In the precedent of **Otieno Obute v. The Republic** (supra) while granting extension of time to a prisoner applicant, the Court stated that:

I have considered the averments by both parties and come to the conclusion that this application has merit. As a prisoner, his rights and responsibilities are restricted. Therefore, he did what he could do. He may have been let down by reasons beyond his means... Accordingly, the application is granted.

The practice of the Court in considering and granting applicants in prison custody for enlargement of time was also celebrated in this court in a bunch applications (see: **Abdul Ramadhani v. Republic**, Misc. Criminal Application No. 58 of 2021; **Makaranga Swea Limbe v. Republic**, Misc. Criminal Application No. 23 of 2023; and **Gasaya Bwana @ Chacha v. Republic**, Misc. Criminal Application No. 22 of 2022).

Similarly, in the current application, the applicant being a prisoner could not have any means to make follow-ups on his case in this court. In the end and abiding the above cited authorities in law and precedents, I agree with the learned State Attorney, Mr. Tawabu that the reasons for delay advanced by the applicant constitute good cause. I have therefore decided to enlarge time for the applicant to lodge the notice within thirty (30) days and petition of appeal within forty five (45) days from the date of delivery of this Ruling.



F. H. Mtulya

Judge

06.06.2022

This Ruling is delivered in chambers under the seal of this court in the presence of the learned State Attorney, Mr. Tawabu Yahya and in the absence of the applicant, Mr. Juma Moroka Masyoka.



F. H. Mtulya

Judge

06.06.2022