

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
MOSHI DISTRICT REGISTRY  
AT MOSHI**

**MISC. CRIMINAL APPLICATION NO. 36 OF 2022**

*(Arising from Economic Case No. 06 of 2021 in Corruption and Economic Crimes  
Division at Moshi Sub-Registry)*

**SIMON ANDREW BOAA.....APPLICANT**

***Versus***

**THE REPUBLIC.....RESPONDENT**

**RULING**

21<sup>st</sup> Feb. & 4<sup>th</sup> April 2023

**A.P.KILIMI, J.:**

This application has been brought under section 10 of the Appellate Jurisdiction Act, Cap 141 RE 2002 and Section 361(1) and (2) of the Criminal Procedure Act Cap 20 RE 2019 (CPA). The application is supported by an affidavit sworn by the applicant Simon Andrew Boaa. In this application the applicant is seeking for leave of this court so he can lodge a notice of appeal out of time.

In his affidavit the applicant deposed under paragraph 3 of his affidavit that being a lay person who was unrepresented during trial he did not know the procedure to undertake so as to lodge the notice of intention to appeal within time prescribed by law.

Responding to the application Ms. Mary Lucas, Senior learned state attorney for Respondent did not object to the prayer she supported by adding another reason that the applicant had to wait until he was supplied with the necessary documents.

In determining this application, the only issue for determination is whether this application for extension of time has merits or not. It is a trite law, the general principle governing applications for grant of extension of time is entirely in the discretion of the court. This discretion must however be judiciously exercised. The principle was well-maintained in the case of **Ngao Godwin Losero vs. Julius Mwarabu**. (Civil Application No. 10 of 2015) [2016] TZCA 37 (13 October 2016) TANZLII in this case it was stated that;-

*"Whether to grant or refuse an application like the one at hand is entirely in the discretion of the*

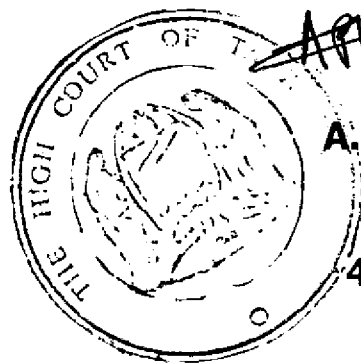
*court. But that discretion is judicial and so it must be exercised according to the rules of reason and justice”.*

Now exercising my discretion in the present matter based on the reason adduced by the applicant, I find it very genuine given the fact that the applicant was not represented during trial and based on the fact that he was sentenced to serve a jail sentence he was not in a position to find assistance even if he wished to appeal. The applicant explained during hearing of this application that it was only after he met his fellow inmates when he was made aware of the procedure for appealing. I have considered this reason and the circumstance surrounding it also the fact that the respondent does not have any objection. In exercise of my discretion, I find the application to be meritorious.

In light of the above, the application is hereby granted and the applicant is ordered to file the notice of his intention to appeal within fourteen days.

It is so ordered.

**DATED** at **MOSHI** this 4<sup>th</sup> day of April, 2023.



**A. P. KILIMI**  
**JUDGE**  
**4/4/2023**