

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**ARUSHA SUB REGISTRY**

**AT ARUSHA**

**MISC. CRIMINAL APPLICATION NO. 07 OF 2024**

(Originating from Criminal Appeal No. 76 of 2018 in the High Court of the United Republic of Tanzania)

**WILLIAM YOHANA MAYOI.....1<sup>ST</sup> APPLICANT**

**WILLIAM DICKSON SEWANDO.....2<sup>ND</sup> APPLICANT**

**VERSUS**

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

**RULING**

**14/03/2024 & 21/03/2024**

**NDUMBARO, J**

This application has been brought under the provisions of section 11 (1) of the Appellate Jurisdiction Act Cap 141 R.E 2019 and rule 10 of the Court of Appeal Rules where the applicants are seeking for extension of time to file the notice of appeal to the Court of Appeal of Tanzania out of time. The application is further supported by the joint affidavit of the applicants.

At the hearing of the application the applicants appeared in person unrepresented, on the other hand, the respondent was represented by **Mr. Geoffrey**, learned State Attorney who did not object the application.

Reasons for delay are established in the applicants' affidavit where it is stated that the delay is as a result of the applicants' advocates' failure to file the notice of appeal to the Court of Appeal of Tanzania within time. Moreover, the applicants went further to state that, since they are in Karatu prison custody, they were unable to timely notice that their advocate had not yet initiated their appeal to the Court of Appeal of Tanzania.

Powers to grant applications for extension of time are vested to the court, such powers are discretionary but needs to be exercised judicially which means that before granting prayers for extension of time the court must be satisfied that sufficient cause for the delay has been well established by the applicant.

I am well aware of the position the law that negligence or an error made by an advocate through negligence or lack of diligence is not sufficient cause for extension of time. See the case of **Yusuph Same & Another vs. Hadija Yusuph**, Civil Appeal No. 01 of 2002 (Unreported). However, the Court of Appeal of Tanzania in the Case of **Charles Chama & others vs. The Regional Manager TRA & Others**, Civil Appeal No. 224 of 2018 (Unreported) observed that; "every case must be decided on its own set of facts".


In the present case, the applicants stated that after conviction, they were transferred at Karatu prison and thus were unable to make frequent follow up to see if their notice to appeal to the Court of Appeal of Tanzania was filed or not. The applicants went further to state that they entrusted their advocate to file their notice of appeal on their behalf but unfortunately he turned them down. In that premise, this court finds that the applicants' delay was beyond their control.

Above all, it is also reflected in the proceedings that, when the matter was called on for hearing, the respondent did not show any intention of objecting the application. In the circumstances, I find no justification not to allow this application and grant the prayer sought by the applicants.

Accordingly, this application is allowed. Leave is granted for the applicants to file their notice of appeal to the Court of Appeal of Tanzania within 14 days from the date of receipt of this copy of ruling.

It is so ordered.



  
**D. D. NDUMBARO**  
**JUDGE**  
**21/03/2024**