

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IRINGA SUB REGISTRY

AT IRINGA

MISC. CRIMINAL APPLICATION NO.11936 OF 2024

(Originating from the District Court of Ludewa at Ludewa Original
Criminal Case No. 51 of 2021)

CASSIAN MSIGWA MAYUGU..... APPELLANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

A.E.Mwipopo, J.

Cassian Msigwa Mayugu, the applicant, filed the present application pursuant to section 361(2) of the Criminal Procedure Act, Cap. 20 R.E. 2022 praying for the court to extend time within which to file notice of intention to appeal and petition of appeal. The application is made by chamber summons supported by affidavit of the applicant. The respondent did not file counter affidavit.

In his submission, the applicant prayed for the court to allow his application and grant his prayer to extend time of filing notice of intention

to appeal and petition of appeal after considering his grounds for application found in the affidavit in support of the application.

Mr. Sauli Makoli, State Attorney, did not oppose the application and left it to the court to decide on the application.

The court has discretion to extend the time to file notice of intention to appeal and petition of appeal where there is sufficient reason. The discretion is provided under section 361(2) of the Criminal Procedure Act. The reason for the delay to file the notice of intention to appeal and petition of appeal stated in the applicant's affidavit is that immediately after he was sentenced by the trial court on 29/09/2022 he informed the prison authority of Ludewa Prison of his intention to appeal. He believed the authority have filed the notice of intention to appeal in court. He made a follow up to prison authority on September, 2023 about his appeal only to be informed that the notice of intention to appeal was not filed in court. He stated that the delay to file notice of appeal within time was out of his control. As a prisoner, he is assisted by prison authority to file notice of appeal and petition of appeal. I find the reasons provided by the applicant is reasonable since as a prisoner, he has no control in preparing and filing documents in court. He depends on prison authority.

Therefore, the application is allowed. The applicant namely Cassian Msigwa Mayugu is granted 30 days to file notice of intention to appeal and petition of appeal as prayed. The said 30 days granted starts to count today. It is so ordered accordingly.



A handwritten signature in blue ink, appearing to read "A. E. Mwipopo", is written over a horizontal line that extends from the seal of the High Court of Tanzania.

A. E. Mwipopo

JUDGE

03/06/2024