

TANZANIA / JUDGMENT

20100315 TZCA Tanga1

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. - . I .. I . . . CHARLES BARNABAS ' , . I . APPLICANT , / . ' !
VERSUS I THE REPUBLIC 1 RESPONDENT j ' i I (Application for
Extension of Time to file Review from the decision of the High Court of Tanzania at Tanga) I ~ . 1
I , , . I (Munuo, J.A., Msoffe J.A., And Kaji J.A.) . I dated the ; f \ day of June 1 200 . S . . I . ; : m I
Criminal Appeal No. 145 of 2003 , I

I I RU' LI NG I I 12 & 15 March, 2010 I I ' j " I I MSOFFE, J.A.: I · I I In this application the
appH6:ant is seeking epension of tim.e to I _.: , _fni' \! e ~ wHEat-ifli1 -- f ~ ew. ~ of ~ m ~ s ~ -
~ t ~ o ~ u ~ r t ; ; s . : . : j ; : . - . ' u ~ , d ; , = ~ ~ m ~ e ~ n t ; , ~ 7 " in ; C : ~ : ri ~ : m ~ in ~ a ; - I ~ - . J ' - I . . .

- ' 1 • • • - . j . - Appeal No. 145 of , 2003. Und ~ . r paragraph 4 C D f the affidavit in I . I support of the notice of motion th ~ applicant . avers l that he . intends to i I ~ - challenge the merit of the judgme ~ f L With ' respect , : as aptiy observed ' · 1 by my brother Mandia ; J.A. : in : ~ Miraji . - Seif v R - rpublic 1 Criminal · T ~ .. - . - Application No. 2 of 2009 (unr € p r t e d) , the primary purpose of a
- ' · I , review is not to chal . l enge the mkrits of a decisi ~ on . . A r ~ view is I 1 . intended to · address irregularities of a decision · or proceedings which -- I have caused injustice to a party. Further to Justice MandLc/s observation, I will add two other matters by way of emphasis. One , ; a review is not an appeal. It is not " a . second bite " , so to speak. As it is, it appears the applicant intends to " appeal " against the aforesaid decision th . rough the back door . - Our legal _ syst { : m has no provision for that. T - wo 1 with the coming into for . ce on 1/2/2010 of the Tanz _ ania Court of Appeal Rules 1 . 2009 1 _ r . il ~ e 66. (1) thereof sets . i out the grounds for review. Under sub - rule { 3 } an application for review must be filed within sixty days from the date of the judgment . . . or the order sought to be reviewed: In this application the applicant does not indicate . : anywhere ' !
- . . . I that he intends to canvass any of the · above grounds. - Admittedly , · the application was filed before the · above Rules came into effect. Admittedly also 1 · under the · revoked
- ~ : - r ~ . . Tanzania Court . of Appeal

- •\ I prison authorities for the delay. in filijg an .applicati°17 • for review within time. The allegation is unsubstantiated in that thJre is nothing'): . . - I . i from the prison-authorities to confirm it. 1 • I \ II , In fact, in my'.-reacfig a na'.~unaerstaidding -of .the. _ap.pJ.ication.o_it_- ____ . . \ . I ,..... I • I appears that the applicant is of the view that a review is automatic. r/ I With r,espect, a r,review is not automatic._ A revfiew to-thi~ Court is at_ ,r I I 1 • 3 .. I &-, l ,, I I . .,, I ' I ' . the discretioil of the Court a.rid is s~bject to the eXistence of any of the grounds set out under Ru1e 66 (~). ..I I The judgmE;nt subject of the intended review was de,liyered on 1' i 3/6/2005 .. This application. was filed on .28/7/2009. On the basis of 11 ,i •1'1 the material or record before. me• Iio sufficient reason has been advanced to explain the deJay. ! ..The application has no merit. If i~ .accordingly dismissed. ;j th DATED at TANGA this 13 day of March, 2010. 'I I I 'i.j i •! I ~s .. - - - - -'----- ; 'I ! i 4 • i I I i

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