

TANZANIA / JUDGMENT

ECONOMIC APPLICATION

DANIEL MSETI SIBORA

COURT
TANZLIIDECIDED
25 November 2024

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IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA MUSOMA SUB - REGISTRY AT
MUSOMA ECONOMIC APPLICATION NO. 000027185 OF 2024 REFERENCE NO.
202409232000027185 (Originating from Economic Case No. 142 of 2022 in the District Court of
Serengeti) BETWEEN DANIEL MSETI SIBORA..... APPLICANT VERSUS
REPUBLIC..... RESPONDENT

RULING

25th & 25th November, 2024 M. L. KOMBA, J. The present application is brought by way of chamber summons premised under section 361 (2) of the Criminal Procedure Act [CAP 20 R.E 2020] in which the applicant Daniel Mseti Sibora is praying before this court the extension of time from which he can appeal out of time from the decision of Serengeti District Court in Economic Case No. 142 of 2022. The application is supported by affidavit deposed by the applicant himself. On the other hand, the respondent didn't file counter affidavit to contest the application. Page 1 of 4 Briefly, the applicant was convicted and sentenced to serve 19 years in prison by the District Court of Serengeti (the Trial Court) for the offences of unlawful possession of weapons in National Park and unlawful possession of Government Trophies contrary to the relevant provisions of the law. The applicant was not amused by the said decision of the trial court and he intended to file his appeal on time but he was delayed to be supplied with the copy of judgment. Now, the applicant filed the present application praying this court to extend time so that he can appeal out of time. During the hearing of this application, the applicant was fended for himself whilst on the other hand the respondent was represented by Ms. Joyce Matimbwi, State Attorney. In his submission, the applicant stated that when he filed his petition of appeal, he was told that he was supposed to attach with a copy of the impugned judgment. In the process he was transferred to another prison. And when he obtained the copy of judgment, he was told that his appeal is out of time, hence he lodged the present application to seek the extension of time. Responding, Ms. Matimbwi was of the submission that, the applicant filed appeal but it was struck out on 28 December 2023 for the reason that it Page 2 of 4 was filed out of time. On 12 September 2024 he filed the present application but in affidavit he did not say why he did not file application on time after the first appeal was struck out. He did not explain if a prison officers delayed him. Citing the case of Moroga Mwita Moroga vs Republic, Criminal Appeal 182 of 2020

CAT Musoma she submitted that the case explained how applicants who are in prison have to be considered. The counsel was of the opinion that the applicant did not explain what delayed him in appealing on time. She prayed the application not to be considered. When a person praying for extension of time, he/she has to registered a good cause(s) sufficient to warrant the court to grant his prayer. See the case of Robert Scheltens vs Balden Norataran Varma & Others (Civil Application No 112 of 2016) [2018] TZCA 477 (3 May 2018), Rutagatina C.L vs The Advocates Committee & Another (Civil Application 98 of

2010) [2011] TZCA 143 (18 February 2011) and Philimon Mang'ehe t/a Bukine Traders vs Gesbo Hebron Bajuta (Civil Application No. 8 of

2016) [2016] TZCA 577 (20 October 2016). Thus, in present application the issue which I am going to look upon is whether the applicant herein established good cause. In the latter case of Philimon Mang'ehe t/a Bukine Traders vs Gesbo Hebron Bajuta (supra) the Court of Appeal stated that; Page 3 of 4 Black's Law Dictionary (Ninth Edition) defines good cause as legally sufficient reason. The term good cause is a relative one and is dependent upon the prevailing circumstances of each case. There are no hard and fast rules to what can constitute good cause. In this application the applicant submitted that he was delayed the copy of judgment and that in the process he was transferred to another prison and when received a copy his appeal was struck out for being out of time. To my opinion, taking into account that when a person entered in prison his/her freedom is confined and he/she cannot do much for him/herself rather than to depend highly on a compassion of the prison officer(s), I found the reason registered by the applicant is sufficient to move this court warrant the extension of time. Therefore, I see the applicant deserve the extension of time so that he can file his appeal and be heard on merit. I proceed to grant him 30 days to file his appeal from the date of this ruling. I also warn the applicant to use this opportunity wisely as it may be the last chance. It is so ordered. M. L. KOMBA JUDGE 25th November, 2024 Page 4 of 4

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