

TANZANIA / JUDGMENT

ERICK JOHN GEORGE RULING 0001

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THE UNITED REPUBLIC OF TANZANIA (JUDICIARY) THE HIGH COURT (MUSOMA SUB
REGISTRY AT MUSOMA) CRIMINAL APPLICATION No. 16194 OF 2024 (Arising from the District
Court of Musoma at Musoma in Criminal Case No. 40 of 2023) ERICK JOHN
GEORGE.....APPLICANT Versus
REPUBLIC..... RESPONDENT

RULING

01.07.2024 & 01.07.2024 Mtulya, J.: Mr. Erick John George (the applicant) was prosecuted and convicted in the District Court of Musoma at Musoma (the district court) in Criminal Case No. 40 of 2023 (the case) for the offence of rape contrary to section 130 (1) & (2) (e) and 131 (1) of the Penal Code [Cap. 16 R.E. 2022] (the Penal Code). The applicant was aggrieved by the decision and wants to dispute the same in this court. Following his desire to dispute the decision of the district court in this court, the applicant had lodged an appeal within time in this court. However, the currently introduced science of electronic Case Management System (e-CMS) had declined his appeal. In order to substantiate his allegation, the applicant had attached a petition of appeal and copy of e-CMS displaying the scuffles of the applicant in filing the intended appeal. i Today morning the applicant had showed up in this court asking enlargement of time to lodge an appeal out of time, when he was questioned on reasons of the application, he produced three reasons, namely: first, he previously prepared and registered an appeal in this court within time and was waiting for summons, but this court had declined him summon to appear for appeal hearing; second, he filed another fresh appeal, but was struck out for want of time limitation; and finally, filed the present application praying for enlargement of time in reasonable time. In replying the submission of the applicant, Mr. Felix Mshama, learned State Attorney, who had appeared for the Republic, did not protest the application. In his support of the move, Mr. Mshama stated that the law in section 361 (2) of the Criminal Procedure Act [Cap. 20 R.E. 2022] (the Criminal Procedure Act) empowers this court to grant enlargement of time for applicants to file appeals out of time, provided that applicants produce sufficient reasons. In his opinion, the applicant, in the instant application has produced good cause in his affidavit and submission'hence may enjoy enlargement of time to file an appeal out of time. I have scanned the record of present application, section 361 (2) of the Criminal Procedure Act, and considered submissions of both sides, and I am persuaded by the reasons produced by the applicant. In any case, the applicant is a prisoner at Musoma prison custody 2 hence some of his rights are curtailed in accessing this

court. Adding the currently introduced sciences of e-CMS in our court, taking note the nature and circumstances of our prisons in this country, and being conversant that right to appeal is a constitutional right, I am moved to think that prisoners in prison custody may enjoy special and peculiar considerations. Having said so, I grant the application. The applicant is granted fourteen (14) days leave to file notice of intention to appeal out of time and forty-five (45) days to file the intended appeal out of time without any further delay. It is soxydered. F. H. MtiXya Judge 01.07.2024 This ruling was delivered in Chambers under the Seal of this court in the presence of the applicant, Mr. Erick John George and in the presence of Mr. Felix Mshama, learned State Attorney for the Republic. F. H. Mtdly< Judge 01.07.2024 3

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