

TANZANIA / JUDGMENT

MCA 2707 OF 2025 JUMA MKWANYWE Final

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IN THE HIGH COURT OF TANZANIA (DAR ES SALAAM SUB-REGISTRY) AT DAR ES SALAAM
MISC. CRIMINAL APPLICATION NO. 2707 OF 2025 (Arising from the District Court of Rufiji at
Utete in Criminal Case No. 98 of 2023) JUMA ATHUMAN MKWANYWE
APPLICANT VERSUS REPUBLIC RESPONDENT

RULING

28th March, 2025 BWEGOGGE, J. This is an application preferred by one Juma Athuman Mkwanywe. The same prays for an extension of time within which he may file an appeal beyond the prescribed period respecting Criminal Case No. 98 of 2023. The application purports to have been brought under the provision of section 362(1)(2) of the Criminal Procedure Act [Cap. 20 R.E. 2022] and supported by the affidavit of the applicant herein. 1 When this matter was brought for necessary order on this very date, Mr Cuthbert Mbilinyi, learned state attorney, informed this court that having read the supporting affidavit respecting the grounds advanced for grant of extension of time, he doesn't intend to contest the application. He prayed this court to grant the extension sought in the interest of justice. The provision of section 361(2) of the Criminal Procedure Act enjoins this court with power to enlarge time within which the appellant may file appeal for good cause. The supporting affidavit bears deposed facts that the applicant was charged with and convicted on a plea of guilty on an offence of incest contrary to section 158 (1) (a) of the Penal Code (Cap. 16 R.E. 2022) and sentenced to serve thirty years imprisonment (30). And, being aggrieved with conviction and sentence passed by the trial court, the applicant instituted his petition of appeal timely on 11th August, 2023. After a considerable period, the applicant was instructed by the deputy registrar to file his petition online. He complied by instituting the second appeal on 3rd May, 2024. 2 However, he was thereafter informed that the time for filing appeal had elapsed. Therefore, he was instructed to file the application for extension of time. Hence, this application. In a bid to account for the period of delay, the applicant deposed that the delay in lodging the appeal was occasioned by events beyond his control; as he had timely filed the earlier petition of appeal before he was later instructed to lodge his appeal electronically through e-CMS. And when he complied with the instruction given, he was found to be beyond the prescribed period for filing appeal. As I mentioned earlier, the attorney for the respondent Republic supports the application. Having gone through the reasons

for delay furnished by the applicant herein, I am satisfied that the same has established sufficient cause to warrant grant of extension sought. 3 Given the foregoing, I hereby invoke the power enjoined to this court under section 361(2) of the Criminal Procedure Act and grant the application herein. The applicant is hereby granted 30 days within which to file appeal beyond the prescribed time. I so order. DATED at DAR ES SALAAM this 28th March, 2025. O. F. BWEGOGGE
JUDGE 4

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CASE PAGE <https://chat.esheria.ai/case-law/tanzania/juma-athuman-mkwanywe-v-republic-Extensionoftime-tanzlii-2025--6a3ea52e3b1caa912982713b>

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