

TANZANIA / JUDGMENT

RENATUS ALEXANDER ORDER

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18 November 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA BUKOBA SUB-REGISTRY AT BUKOBA MISC. CRIMINAL APPLICATION NO. 28508 OF 2024 (Arising from criminal case No. 5760/2024 of Missenyi District Court Before Y. C. Myombo) RENATUS ALEXANDER..... APPLICANT VERSUS THE REPUBLIC..... RESPONDENT ORDER 18/11/2024 E.L. NGIGWANA, J

The applicant has moved this court under section 361 (2) of the Criminal Procedure Act, [Cap 20 R: E 2022] seeking an extension of time to lodge an Appeal out of time against the decision of Missenyi District Court in Criminal case No. 5760/2024 handed down on 28/03/2024. The application is supported by an affidavit duly sworn by the applicant, the same is not opposed by the respondent Republic. A brief background of this matter is to the effect that, the applicant was charged with the offence of Rape contrary to sections 130 (1), 2 (e), and 131(1) of the Penal Code, [Cap. 16 R.E 2022]. It was alleged that the applicant on 2/02/2024 at Gabulanga Village within Missenyi District in Kagera Region, did have carnal knowledge of a girl aged 12 years old. The applicant denied the charge and as a result, the case proceeded to a full trial at which the court was satisfied that the 1 case of Rape against the applicant was proved beyond reasonable doubt. He was convicted and sentenced to a jail term of thirty (30) years. The trial court's decision aggrieved the applicant whereas, on 29/03/2024, he filed the notice of intention to appeal but lodged no appeal to this court within the prescribed time, hence this application. When the application was called on for hearing, the applicant who stood unrepresented urged the court to adopt his affidavit as part of his submission and grant the reliefs sought. The respondent Republic had the legal services of Ms. Glory Lugeye, learned State Attorney. The application was not contested by the respondent by way of a counter affidavit, likewise during the hearing, on the major reason that the applicant has shown sufficient cause for the delay. Now, the question for determination is whether the applicant has been able to advance sufficient reason(s) for the delay. It is a cardinal principle that an extension of time is granted in the exercise of the court's discretion which must always be exercised judiciously depending on the circumstances of each case. In other words, the applicant will be granted an extension of time upon demonstrating sufficient cause for the delay; whether actual or technical delay. In the matter at hand, the applicant has demonstrated that he failed to appeal due to reasons beyond 2 his control. No doubt that a prisoner is not a free agent to do what he wants at any time. I find that the applicant has advanced good cause for the failure to file an Appeal within the prescribed period. For that reason, I allow the application. The applicant is given twenty-one (21) days from the date of this

order within which to file the petition of appeal to this court. It is so ordered Dated at Bukoba this 18th day of November, 2024. E.L. NGIGWANA JUDGE 18/11/2024. 3 Delivered this 18th day of November, 2024 in the presence of the applicant in person, Ms. Gloria Lugeye learned State Attorney for the Republic, Hon. Madulu-JLA, and Ms. Queen Koba, BC. E.L. NGIGWANA JUDGE 18/11/2024. 4

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