

TANZANIA / JUDGMENT

Ruling Vumilia

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THE JUDICIARY OF TANZANIA IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA AT
KIGOMA DC. CRIMINAL APPEAL NO. 000018613 OF 2024 VUMILIA PETRO
COMPLAINANT / APPELLANT / APPLICANT VERSUS REPUBLIC
RESPONDENT / DEFENDANT

RULING

NKWABI, J The appellant in this appeal appears to have been charged with an offence of rape. It is difficult to me to identify the provisions under which he was charged with in the trial court because the petition of appeal was not accompanied with the copy of the judgment. When the appeal was called on for hearing, the appellant appeared in person, unrepresented while the respondent was represented by Mr. Dickson Makongo, learned State Attorney. At the commencement of the hearing of the appeal, Mr. Makongo, noted and indeed submitted that the appeal is incompetent owing to it being filed without attaching the copy of judgment which is sought to be appealed against. He prayed I strike out the appeal. On his side, the appellant pressed that the appeal is competent so it has to proceed being heard on merits. Mr. Makongo, however, in rejoinder submission, insisted on his stance in submission in chief. On my side, I accede to the stand view which is held by Mr. Makongo. The reason is not far-fetched. Firstly, it is the requirement of the law. Secondly, the copy of judgment assists the appellate court to determine whether the appeal was filed in time or it is time barred. Secondly, it assists the Court to know exactly whether the parties in the appeal are the same as those in the trial court. It should be noted, errors might happen, the good way to check it at the preliminary stage is to look at the judgment of the trial court. This appeal is therefore incompetent for failure to attach a copy of the judgment that is sought to be appealed against. I proceed to strike out the appeal under the authority of MIC Tanzania Ltd v. Minister for Labour and Youth Development & Another, Civil Appeal No. 103/2004, (CAT). Page. 1 Hon... JOHN NKWABI It is so ordered. Dated at KIGOMA this 2nd of April 2025 . J. NKWABI JUDGE OF THE HIGH COURT Page. 2 Hon... JOHN NKWABI

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