

The Republic of Uganda

In the High Court of Uganda of Soroti

Criminal Appeal No. 0007 of 2022

(Arising from Criminal Case No. 365 of 2018, CRB 999/2018)

10 Uganda Appellant

Versus

Honourable Olobo James Respondent

Before: Hon. Justice Dr Henry Peter Adonyo

15 Judgment on Non-Starter Appeal

This appeal arises from the judgement and acquittal of Honourable Olobo James, the respondent by H/W Tumuhimbise Nause Magistrate Grade 1 at Soroti Chief Magistrates Court delivered on 23rd September 2022 where the respondent was charged on two counts that is Assault c/s 236 of the PCA and Theft c/s 254 (1) and 261 of the PCA.

Uganda, the appellant filed a notice of appeal on the 23rd of September 2022 wherein it indicated its intention to appeal against the illegal sentence in count I and acquittal in count II.

To this date after multiple adjournments, the appellant is yet to file grounds of appeal or give any sign of the intention to file one. The Deputy Registrar therefore forwarded it for possible action of a dismissal.

- 5 Section 48 (1) (2) of the Criminal Procedure Code Act, provides, inter alia, that every appeal shall be commenced by a notice in writing which shall be signed by the appellant or an advocate on his or her behalf, and shall be lodged with the registrar except where subsection (3) applies, state the general grounds upon which the appeal is preferred.
- 10 Subsection (3) provides that if the appellant indicates at the time of filing a notice of appeal that he or she wishes to peruse the judgment or order appealed against before formulating the grounds of appeal, he or she shall be provided with a copy of the judgment or order, free of charge, and the grounds of appeal shall be lodged with the registrar within fourteen days of the date of the service on him
- 15 or her of the copy of the judgment or order.

In this instance the appellant indicated in the notice of appeal that it required the typed and certified lower court proceedings and judgement in order to formulate grounds of appeal.

- The lower court record including the typed and certified record of proceedings
- 20 and judgment were forwarded to this court on the 17th of May 2023, however, to date; no grounds of appeal have been filed in this court and no reasons given for not doing so.

Section 44 of the Criminal Procedure Code Act provides for dismissal of appeal for want of prosecution;

- 25 Subsection 1(b) provides that an appellate court may dismiss an appeal for want of prosecution if the appellant fails to take any necessary step in prosecuting his or her appeal within the time allowed and has not made an application for extension of time.

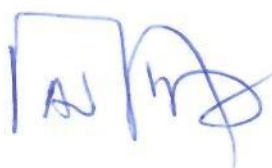
5 In this instant the appellant has failed to prosecute its appeal by filing grounds of appeal within the prescribed time of fourteen days provided by section 28(3) of the Criminal Procedure Code Act and no application for extension of time has been preferred in that regard.

Given the above scenario of non-filing of grounds of appeal within the prescribed
10 time of fourteen days as provided by section 28(3) of the Criminal Procedure Code Act and given the fact that, to date, no application for extension of time has been preferred in that regard, then it is clear to me that this appeal is a non-starter and has been has been abandoned.

In the final result, and by the application of Section 44 of the Criminal Procedure
15 Code Act which provides for dismissal of appeal for want of prosecution, I do in accordance within the provisions of Subsection 1(b) thereof dismiss this appeal for want of prosecution as the appellant has failed to take any necessary step in prosecuting the appeal within the time allowed and has not made an application for extension of time.

20 Accordingly, this appeal is dismissed for want of prosecution.

I so order.



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Hon. Justice Dr Henry Peter Adonyo

Judge

17th April 2024