

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
ELECTION PETITION APPLICATION NO. 24 OF 2021
{Arising out of Election Petition Appeal No. 059 of 2021}

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CORAM:

HON. MR. JUSTICE RICHARD BUTEERA, DCJ
HON. LADY JUSTICE CATHERINE BAMUGEMEREIRE, JA
HON. LADY JUSTICE IRENE MULYAGONJA, JA

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KAGYERERO RONALD::::::::::::: APPLICANT/APPELLANT

VERSUS

1. **MUWUMA MILTON KALULU**
2. **ELECTORAL COMMISSION ::::::::::::::: RESPONDENTS**
*(Arising out of the Judgment of Susan Abinyo, J in Election
Petition No. 8 of 2021 which was delivered on 15th October 2021)*

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RULING OF THE COURT

Background

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The Applicant, the 1st respondent and 14 others contested for the position of Member of Parliament for Kigulu South Constituency, Iganga District held on 14th February 2021. The 2nd respondent declared and gazetted the 1st respondent as the duly elected Member of Parliament for Kigulu South Constituency.

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The applicant, Ronald Kagyerero filed Election Petition Appeal No. 8 of 2021 in the High Court at Jinja seeking to annul the election of the 1st respondent on grounds that he was not a registered voter and did not possess the requisite minimum academic qualifications set by law to stand as a Member of



Parliament. On 15th October 2021, the petition was dismissed with costs.

6 The applicant being dissatisfied with the decision of the High Court, filed a Notice of appeal in the High Court of Jinja on 21st October 2021 and on 27th October 2021 he filed a Memorandum of Appeal and served it on the respondents on 28th October 2021. The applicant then filed, in this court, the Record of Appeal on 10th December 2021 and served the same on the respondents who protested its late filing. On 13th December 2021, the applicant filed Election Petition Application No. 24 of 2021 (the instant
12 application) seeking to extend the time within which to file the Record of Appeal or to validate the Record of Appeal filed out of time.

18 The applicant brought this application by Notice of Motion under rules 5, 42 (2), 43 (1), 44 and 83 (3) of the Judicature (Court of Appeal) Rules SI 13-10 and rules 31 & 36 of the Parliamentary Elections (Interim Provisions) (Election
Petition) rules SI 141-2 seeking orders that;

1. The time within which the applicant may file the record of appeal in Election Petition No. 59 of 2021 be extended.
2. The act of filing the record of appeal in Election Petition No. 59 of 2021 filed on 10th December 2021 be validated.
- 24 3. The costs of the application abide the outcome of the appeal.

The grounds of the application are found in the affidavit of the applicant, Ronald Kagyerero which briefly states as follows;



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1. The Judgment in Election Petition No. 8 of 2021 was delivered on 15th October 2021.
2. A Notice of Appeal and letter applying for the certified record of proceedings were filed in the High Court at Jinja on the 21st October 2021.
3. The Memorandum of Appeal was filed on 27th October 2021 and served on 28th October 2021.
4. The applicant through his counsel wrote two letters and made several trips to the High Court Registrar at Jinja reminding him of the certified record of proceedings.
5. On 25th November 2021, the Deputy Registrar, Jinja High Court wrote to the applicant's counsel informing him of the readiness of the record and it was picked the same day.
6. The record was filed on 10th December 2021.
7. That the delay to file or failure to file the record of appeal within time stipulated by law was as a result of the failure to obtain the record in time even after exercising due diligence.
8. The respondents have not suffered any prejudice.
9. There was no inordinate delay on the part of the applicant in filing the record of appeal.
10. It's in the interest of justice that this application is granted.

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On the other hand, the 1st respondent opposed the application and swore an affidavit in reply stating thus;

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- 1) He was the duly elected Member of Parliament for Kigulu South Constituency having won the election held on 14th January 2021.
- 2) The applicant having filed the Memorandum of Appeal on 27th October 2021, by filing the record of appeal on 10th December 2021, 44 days from the date of filing the Memorandum was contrary to the rules that require the filing of the record within 30 days from the date of filing the Memorandum of Appeal.



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- 3) There is no proper appeal under the law since the applicant filed the record of appeal out of time.
 - 4) The fact that the record of appeal cannot be filed without the record of proceedings is not a reason for the delay and filing the record of appeal out of time.
 - 5) It was negligent for both the applicant and his lawyers to have waited until the record of proceedings was ready to begin preparing other components of the record of appeal.
 - 6) The applicant and his lawyers were never ready and serious about taking essential steps in furtherance of the appeal as they took more 19 days to file the record of appeal after the record of proceedings had been availed.
 - 7) The record of appeal was filed with unreasonable delay of 18 days from the time the same had been availed being 14 days late.
 - 8) The applicant has not demonstrated any reasons why he did not file the record of appeal within the 4 days that were left to the expiry of the 30 days allowed for filing the record of appeal.
 - 9) There is unexplained inordinate delay of 14 days in taking the essential step of filing the record of appeal, which demonstrates total lack of interest, and vigilance in filing and prosecuting the appeal.
 - 10) The appeal should be struck off for total failure to take an essential step within the prescribed time.

In his reply, the 2nd respondent opposed the application through the affidavit of **Ezale Oshman** who stated as follows;

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1. The affidavit of the applicant contains material falsehoods intended to mislead this court.
 2. The applicant's failure to file and serve the record of appeal on time was due to the applicant's dilatory conduct and inordinate delay.



3. The applicant received the certified record of proceedings on 25th November 2021 and his counsel began preparing the record of appeal.
4. The record of appeal was subsequently filed on the 10th December 2021.
5. There is no sufficient cause for the 15 days' delay in filing of the record of appeal from the date of receiving the court proceedings on 25th November 2021 to the date of filing the record.
6. The instant application discloses no sufficient reason for the applicant's delay and/or failure to file the record of appeal within the time prescribed by law.
7. The application ought to be dismissed in light of the constitutional command of expeditious disposal and timely resolution of electoral disputes.

Representation

The applicant was represented by Messrs Luganda, Ojok & Co. Advocates, the 1st respondent was represented by Kabega, Bogezi and Bukenya Advocates while the 2nd respondent was represented by the Legal Department of the Electoral Commission.

All parties filed their written submissions which have been considered in the determination of this appeal.

The Applicant's Submissions

Counsel for the applicant submitted that by the time the typed record of proceedings was delivered to the applicant's lawyers, together with the certificate of readiness and correctness, there were only two days to the end of the time stipulated under the

electoral laws and it was impractical for the Record of Appeal to be filed within that time.

6 He added that the 30 days within which to file the Record of Appeal started running from 27th October 2021 up to the 27th day of November 2021. Counsel submitted that the applicant having received the copy of the typed proceedings on 25th November 2021 was remaining with only two days, which were impractical to prepare the record in accordance with the Court of Appeal Rules. Counsel maintained that the failure to file the Record of Appeal in time was due to the failure to obtain the record of
12 proceedings in time from the High Court even after exercising due diligence.

He relied on **Bwino Kyakulaga v Badogi Ismail Wauma EPA No. 26 of 2016** for the proposition that this court has always taken into consideration the fact that election matters must expeditiously be handled and that the Applicant had the duty of
18 following the availability of the record of proceedings as compared to ordinary civil matters. In **Kyakulaga (supra)** it was noted that the applicant took all the reasonable and necessary steps in trying to obtain the record of proceedings, and that the resultant delay could only be attributed to the trial court.

24 Counsel further relied on **Mugema Peter v Mudiobole Abedi Nasser EPP No. 16 of 2016** for the proposition that,



6 “...Whereas it’s true that timelines in election litigations
are very crucial, it’s our strong view that court takes into
account the unique circumstances of each case. In **Mukasa
Anthony Harris v Dr. Bayiga Micheal Phillip Lulume SC
EPA No. 18 of 2007 and Wanume David Kitamirike v
URA CACA No. 138** of 2010, court held that under rule 83
(2) in computing time within which the appeal is
instituted, the court registrar must certify the time as
having been required for the preparation and delivery to
the Appellants of the copy of the proceedings. In the
12 instant case, it has not been disputed that the appellant
made a number of requests for the proceedings, including
taking trips to the Jinja registry to check on the progress of
the same.”

18 It was counsel’s submission that in this instant case, the applicant
wrote a first letter on 21st October 2021 and a second letter on 4th
November 2021. Counsel relied on the affidavit of the applicant
in which he stated that his former lawyer Berna Mutamba made
several physical trips to Jinja High Court to follow up the
proceeding. Counsel emphasised that they attended court on the
9th November 2021 and on the 19th November 2021. The
applicant himself together with his lawyer made another trip to
24 the High Court to attend to the Deputy Registrar. Counsel noted
that it was only on the 25th November 2021 when the record of



proceedings was made available to the applicant. This was two days before the end of the mandatory 30 days which were due to expire on 27th November 2021. Counsel conceded that the record was filed on 10th December 2021. Counsel prayed that court be
6 pleased to enlarge the time within which to file the appeal and allow the filing out of time.

The 1st Respondent's Submissions

Counsel for the 1st respondent submitted that **rule 31 of the Parliamentary Elections (Interim Provisions) (Election petitions)** rules requires that a record of appeal shall be filed
12 within 30 days from the filing of the Memorandum of Appeal. He submitted that the applicant filed the Memorandum of Appeal on 27th October 2021 and the Record of Appeal ought to have been filed by at least the 26th November 2021 but the applicant chose to file on the 10th December 2021, 14 days, outside time.

18 Counsel submitted that the applicant was availed the record of proceedings in time on 22nd October 2021 and therefore ought to have filed it by the 26th November 2021.

Counsel referred to **Utex Industries Ltd v Attorney General SCCA No. 52 of 1995** where the Supreme Court proposed thus;

24 "To avoid delays, rules of court provide a timetable within which certain steps ought to be taken. For any delay to be excused, it must be explained satisfactorily." Counsel submitted that the



applicant ought to have exercised vigilance in the prosecution of the appeal.

Counsel further referred to **The E.C & Anor v Piro Santos Eruga EPA No. 22 of 2011**, in which this court pronounced itself on the seriousness of election matters;

“Elections are serious matters of a state with its citizens. As elections are held, the outcome announced, the electorate must know their political leader quickly and assuredly. There must be limited or no uncertainty about this...so either the election is accepted at once or if challenged, that challenge must be moved along to the end swiftly enough to restore sanity. And for that, election petitions are governed by this act with its rules in a very strict manner...”

It was counsel’s submission that the filing of the Record of Appeal is a mandatory and essential step in the prosecution of Election Appeals. Further, that the applicant filed his Record of Appeal outside the prescribed time, which in essence would mean that an essential step was not taken within the prescribed time.

He referred to **Peter Bakaluba Mukasa & Anor v Nalugo Mary Margaret Sekiziyivu EPA No. 24 of 2011** where this court observed the mandatory nature of the rules requiring the filing of the record of appeal within 30 days. It was counsel’s



contention that by the time the record of proceedings was availed to the applicant, he still had time to file the record of appeal if he had been vigilant enough. He cited **Kasibante Moses v E.C Election Petition Appeal (EPA)**

6 **No. 7 of 2012** in which court held that;

12 “It is now settled law that it is the duty of the intending appellant to actively take the necessary steps to prosecute his/her intended appeal. It is not the duty of court or any other person to carry out this duty for the intending appellant. Once judgment is delivered, the intending appellant has to take all the necessary steps to ensure that the appeal is being heard in time...”

18 Counsel for the respondent observed that there was unreasonable and inordinate delay in filing the Record of Appeal. He added that the applicant does not explain why it took him 14 days to file the Record of Appeal after the expiry of the time within which he was supposed to have filed the same. Counsel argued that contrary to the applicant’s averment that the record was availed on 25th November 2021, it was actually availed on 22nd November 2021 and a letter to that effect was written calling the applicant’s lawyers to pick the record and the applicant’s lawyers having picked the record on 25th November 2021, demonstrates the lack of vigilance and seriousness in pursuing the appeal and filing the record of appeal.

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Counsel prayed that the application be dismissed with costs to the 1st respondent and that **EPA No. 59 of 2021** be struck out for failure to take an essential step in prosecution of the appeal as required by law.

6 **The 2nd respondent's submissions**

Counsel for the 2nd respondent submitted that it is not in the interest of justice to allow the instant application in light of the fact that the parties have a duty to ensure that they comply with their respective timelines, and the court must adhere to its own. He cited **rule 5 of the Court of Appeal Rules** which stipulates that; 'the court may for sufficient reason extend the time limited by these rules or by any decision of the court for the doing of any act authorized or required by these rules...'

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Counsel added that the expression sufficient cause was described in **Rosette Kizito v Administrator General & Others SCCA No. 9 of 1986** as one relating to the inability or failure to take the particular step in time.

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It was counsel's submission that the applicant had failed to prove sufficient cause for not filing and serving the Record of Appeal. Counsel submitted that it was the duty of the appellant to file the record of proceedings within the statutory 30 days from the date of filing and serving the Memorandum of Appeal. He invited this court to find that his delay to follow the production of the

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proceedings amounted to dilatory conduct which should not be tolerated by this court.

6 Counsel averred that the applicant filed the Notice of Appeal and the Memorandum of appeal on 21st October 2021 and 27th October 2021 respectively. He added that the applicant received the certified record of proceedings on 25th November 2021 a date that was within the 30 days allowed for filing.

12 Counsel contended that the applicant's excuse of not serving the Record of Appeal is extremely flimsy and excessively casual. He relied on **Tiberio Okeny & Anor v the Attorney General & 2 Others CACA No. 51 of 2001** which expounded the considerations which guide courts in arriving at an appropriate decision;

18 a) The applicant must show sufficient reason related to the inability or failure to take some particular step within the prescribed time. The general requirement notwithstanding each case must be decided on facts.

b) Whilst mistakes of counsel sometimes may amount to sufficient reason, this is only if they amount to an error of Judgment but not inordinate delay or negligence to observe or ascertain plain requirements of law.

24 Counsel submitted that the extension of time and/or validation of the Record of Appeal sought is only intended to delay justice and deny the 2nd respondent enjoyment of fruits of his Judgment.







Counsel prayed that court finds that the application for extension and/ or validation of the record of appeal discloses no sufficient grounds; lacks merit and court should dismiss the same with costs.




6 **Decision of the Court**

We have carefully considered the court record and the submissions of all counsel as well as authorities cited. We have also had time to research widely and to consider authorities not necessarily cited by counsel but pertinent to this appeal.

12 This applicant seeks the extension of time within which to file the record of Appeal or the validation of his Record of Appeal, which was filed out of the prescribed time. We note that when it comes to appeals, there is no rule under the **Parliamentary Election (Interim Provisions) Rules SI 142-2** that provides for extension of the time within which to file delayed documents on appeal. For avoidance of doubt I shall quote the rules. These are
18 to be found in **Part III of the Parliamentary Elections (Interim Provisions) Rules SI 141-2**. The rules provide for how an election appeal ought to be filed. This is what they say:

29. Notice of appeal.

24 Notice of appeal may be given either orally at the time judgment is given or in writing within seven days after the judgment of the High Court against which the appeal is being made.

30. Memorandum of appeal.

6 A memorandum of appeal shall be filed with the registrar— (a) in a case where oral notice of appeal has been given, within fourteen days after the notice was given; and (b) in a case where a written notice of appeal has been given, within seven days after notice was given.

31. Record of appeal.

The appellant shall lodge with the registrar the record of appeal within thirty days after the filing by him or her of the memorandum of appeal.

12 I have underlined rule 31 to emphasize that it forms the core of the legal arguments in this case and that is, whether the applicant filed the record of appeal within 30 days after he filed a record of appeal. The applicant seeks for this court to extend time within which he should file his record and to validate the said record of appeal. This is because he was aware that having duly lodged a
18 notice of appeal as required under rule 29 and after filing his memorandum of appeal within the stipulated time under rule 30, he did not follow his actions with filing the record of proceedings within the requisite 30days. Ideally, this court should look to find a rule under **Parliamentary Election Petitions (Interim Provisions) Rules SI 141-2 (a.k.a Election Petitions Rules)** by which such action or inaction can be
24 validated or denied. The **Election Petitions Rules** are divided in 3 sections. The first part relates to preliminary matters. Part II



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specifically refers to the rules of procedure which the High Court may follow while handling parliamentary election petitions. It follows from reading the relevant part, **Part III** of the **Parliamentary Elections (Interim Provisions) Rules SI 142-1**,
6 that no specific rule or procedure is laid down as to how appellate courts can enlarge time. More importantly, **rule 36** of the **Parliamentary Elections (Interim provisions) (Election Petition) Rules** provides as follows;

12 “Subject to such modifications as the court may direct in the interests of justice and expedition of the proceedings, any rules regulating the procedure and practice on appeal from decisions of the High Court to the Court of Appeal in civil matters shall apply to appeals under this Part of these Rules.”

18 It is for the above reasons that this court reverts to rules which normally apply to civil cases. In this case the applicable rule is **rule 5 of the Judicature (Court of Appeal Rules) Directions**, which gives this court the discretion, for sufficient reason, to extend the time limited by the rules.

24 While indeed our rules grant wild latitude to this court to extend time, it is imperative to note that the strictness in the timelines for handling election matters is a constitutional and statutory requirement that election petition matters should be handled expeditiously.

AP





Article 140 (1) and (2) of the Constitution provide that;

140. Hearing of Election cases.

(1) Where any question is before the High Court for determination under Article 86 (1) of this Constitution, the High Court shall proceed to hear and determine the question expeditiously and may, for that purpose, suspend any other matter pending before it.

(2) This article shall apply in a similar manner to the Court of Appeal and the Supreme Court when hearing and determining appeals on questions referred to in clause (1) of this article.

S. 66 (2) of the Parliamentary Elections Act captures the spirit of **Article 140 of the Constitution** by providing that this court shall hear and determine Election Petition Appeals within six months from the date of filing the appeal and may for that purpose suspend any other matter pending before it. Further, **rule 32** enjoins the court to hear and determine an appeal under these rules expeditiously.

This court in a number of cases cited earlier stated the rationale for the strict timelines. In **Edward K. Wesonga v Electoral Commission, the Returning Officer Mbale and Hon. Wanjusi Wasieba Silvester, EPA No. 17 of 1997**, this court while dismissing an appeal for being exceptionally tardy as rule 34 of the then Parliamentary Election (Election Petition) rules had not been complied with held as follows;



6 “Similarly Rule 34 dealing with Electoral appeals stipulates for
the appeal to be disposed of within thirty days from the lodging
of the record of appeal unless the court extends the time on
exceptional grounds. The compelling reason for prompt action
in disposing of election contests to the end is that a decision may
be reached before the term has wholly or in great part expired as
pointed out above. This seems to be the spirit of the law. This is
why electoral proceedings are special proceedings and summary
in nature. The questions involved are political. Hence the special
rules of procedure to facilitate the expeditious disposal. This
12 particular appeal has been exceptionally tardy.”

Further, in **The EC & Another v Piro Santos Eruga EPA No. 22
of 2011**, this court quoted with approval the decision in the
Kenyan case of **Muiya v Nyangah & Ors (2003) 2 EA 616
C.H.C.K** that;

18 “Elections are serious matters of a state with its
citizens. As elections are held, the outcome
announced, the electorate must know their political
leader quickly and assuredly. There must be limited
or no uncertainty about this. The roles of electoral
representatives are many and diverse vis-à-vis their
electors. To perform the roles well, the elected must
be sure of his post and the elector of his leader. And
24 the sooner the better to give that certainty. So either







the election is accepted at once or if challenged, that challenge must be moved along to the end swiftly enough to restore certainty. And for that, election petitions are governed by this act with its rules in a very strict manner...”

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Consequently, this court has adopted a very strict approach in most of its decisions on compliance with election petitions and appeals statutory timelines.

As noted earlier above, **rule 31** of the **Election Petitions Rules**, is significant and we shall take the liberty to repeat its wording here.

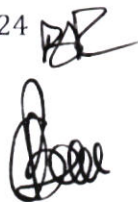
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‘The appellant shall lodge with the registrar the record of appeal within thirty days after the filing by him or her of the memorandum of appeal.’ For avoidance of doubt, **r36** provides that the court may direct in the interests of justice and for the expeditious hearing of the proceedings, that any rules regulating the procedure and practice on appeal from decisions of the High Court to the Court of Appeal in civil matters shall apply to appeals under this Part of these Rules.

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We shall now proceed to consider whether the applicant has shown any sufficient reasons for his failure to file the record of appeal in time.

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In **Nalugo Mary Margaret Sekiziyivu v Peter Bakaluba Mukasa** CA Civil Reference No. 79 of 2011, it was held that the reason



advanced for extension of time must be one that is cogent and touching on the inability to take an appropriate step.

In Mulindwa George William v Kisubika Joseph SCCA No. 12 of 2014, the Supreme Court expounded the meaning of sufficient reasons.

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“Sufficient reason is not defined by the rules of court. However, this court has in the past considered what amounts to sufficient reason in a number of cases including; **FL Kaderbhai & anor v Shamsherali M.Zaver Virji & 2 Ors SCCA No. 20 of 2008**, and recently in **Kananura Andrew Kansiime v Richard Henry Kaijuka Civil Reference No. 15 of 2016**, where this court relied on a quotation from the judgment of Mulenga JSC (as he then was) in **Katatumba v Waheed Karim SCCA No. 27 of 2007** where he reasoned that; under rule 5 of the Supreme Court Rules, the court may, for sufficient reason extend the time prescribed by the rules.”

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What constitutes sufficient reason is left to the court’s unfettered discretion. In this context, the court will accept either a reason that prevented an applicant from taking the essential step in time, or other reasons why the intended appeal should be allowed to proceed though out of time. For example, an application that is brought promptly will be considered more sympathetically than one that is brought after an unexplained or

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inordinate delay. However, even where the application is unduly delayed, the court may grant the extension if shutting out the appeal may appear to cause injustice. Each application must be viewed by reference to the criterion of justice and it is important to bear in mind that time limits are there to be observed, and justice may be defeated if there is laxity. Factors to be considered in an application for extension of time are:

- i. The length of delay;
- ii. The reason for delay;
- iii. The possibility or chances of success;
- iv. The degree of prejudice to the other party.

Once a delay is not accounted for, it does not matter the length of delay. There must always be an explanation for the period of delay.”

In this case, the evidence on record reveals that the trial court delivered Judgment on 15th October 2021. On 21st October 2021, the applicant filed a Notice of Appeal and served the same upon the respondents. On 27th October 2021, the applicant through his advocates filed a Memorandum of Appeal in the High Court at Jinja and served it on 28th October 2021.

According to the evidence contained in the affidavit of the applicant, through his counsel, he wrote two letters and made several trips to the Deputy Registrar at Jinja High Court

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reminding him of the certified record of proceedings which were
availed on 25th November 2021. The applicant at that time had 2
days left to file the record, which was supposed to be filed by 27th
November 2021. The record was however filed on 10th December
2021.

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The applicant explained that the delay to file or failure to file the
record of appeal within time stipulated by law was as a result of
the failure to obtain the record in time even after exercising due
diligence.

The respondents on the other hand contend that the applicant
did not provide sufficient reasons for such delays and his excuse
was flimsy. In **Ikiror Kevin v Orot Ismael, C.O.A EPA No. 105
of 2011** Court held that;

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“Timelines for filing election petitions are strict and the strictness
is deliberate. Any petition filed outside the prescribed timelines
is bad in law and ought to be dismissed.”

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This court has also in her recent decision of **Kasibo Joshua
Omayende v Mboizi A. Waako & Anor EPA No. 6 of 2021**
expounded that where the provision for extension of time is
enabled by regulations and the period of limitation is in the
Rules, such period of time can be extended by powers for
extension in the rules. However, where the limitation period is
in an Act of parliament, it cannot be extended in breach of the
period in the Act for want of jurisdiction of the court.

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The Supreme Court in **Robert Kyagulanyi Ssentamu v Yoweri Museveni Tibuhaburwa & Anor M.A No. 1 of 2021**, followed a persuasive decision of **Rao & Others (1956) 1 MLJ 40**, where it was held;

6 “...the general rule is well settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity but is a purely statutory proceeding unknown in the common law, and that the court possesses no common law power. It is also well settled that it is a sound principle of natural justice that the success of a
12 candidate who has won an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law.”

Basing on the above authorities, we find that the applicant ought to have adhered to the strict timelines had he intended to pursue his appeal.

18 In **Wakayima Musoke Nsereko Hanning v Hamis Muoke and the EC, Consolidated Election Petition Applications No. 1 of 2022, No. 2 of 2022 and No. 35 of 2022** in which this court, while dismissing an application to validate an appeal filed out of time noted that the applicant has failed to show exceptional circumstances that would persuade this court to validate his
24 appeal. On the contrary the applicant and his counsel exhibited a rare form of lethargic behaviour.





We maintain that it was negligent of the applicant and his lawyers to have waited until the record of proceedings was ready to begin preparing other components of the record of appeal. Had they prepared other components of the record earlier, it would have been easy to file the entire record in time since the only thing left were the typed proceedings which they received 2 days prior to the deadline of filing the record. Vigilant lawyers would have had other components of the record ready pending the proceedings, which would have saved them a lot of time. However, in this case, they chose to relax while waiting for the proceedings, which does not in our view amount to sufficient reason.

We find that the appeal process was materially and irreversibly flawed for failure to comply with the stipulated timelines. In this case there being no record of appeal since none was filed on time. In the circumstances, we find that the applicant has not proved the existence of special circumstances which would compel us to grant this Application for Extension of Time and in tandem validate of the Record of Appeal filed belatedly. The application to extend time is declined. We therefore disallow the application to validate the appeal with the result that there is no valid appeal before this court. In the final result, therefore, the appeal is struck out for being incurably defective.





Accordingly, the application for extension of time fails and validation of the record of appeal is declined and the appeal is herewith dismissed. Each party shall bear its own costs.

We so order

6 Dated at Kampala this 13th day of July.....2022.

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HON. MR. JUSTICE RICHARD BUTEERA
DEPUTY CHIEF JUSTICE

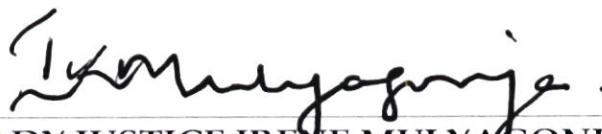
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HON. LADY JUSTICE CATHERINE BAMUGEMEREIRE
JUSTICE OF APPEAL

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HON. LADY JUSTICE IRENE MULYAGONJA
JUSTICE OF THE COURT OF APPEAL