THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CRIMINAL MISC. APPL. No 9 of 2020

LUBEGA ASHRAF

APPLICANT

Versus

UGANDA

RESPONDENT

BEFORE: HON. MR. JUSTICE MICHAEL ELUBU RULING

This application is commenced under Section 28 (6) and 31 of the Criminal Procedure Code Act.

The applicant is Lubega Ashraf seeks orders that:

- He be granted leave to file an appeal out of time.

The grounds on which this application is premised are laid out in the Notice of Motion and elaborated in the accompanying affidavit affirmed by the applicant.

The applicant states that he was charged with the offences of Theft and Threatening Violence at the Magistrate Grade I Court sitting at Makindye. He was tried, and then convicted on the 16th day of December 2019. The Court handed down a sentence of 6 years and ordered him to pay compensation of 10,000,000/- (Ten Million Shillings).

The applicant states that though he intended to appeal, both against conviction and sentence, was unable to because he was impecunious and had no access to legal services. That it was the Christmas break and there was a lack of stationary at the Kampala Remand Prison where he was in detention. He implores the court to allow him appeal out of time.

The respondent opposes the application. That the reasons given by the applicant are not plausible.

Under Section 31 of **the Criminal Procedure Code Act**, this Court has the mandate to extend time within which to file an appeal. It is a discretionary power which is exercised where good cause is established. Such good cause would ordinarily include evidence to show that the applicant has not been dilatory in his actions and has, by sufficient reason, been prevented from acting within the 14 days within which he should lodge the Notice of Appeal.

In this instant case the sentence was handed down on the 16th of December 2019. This application was filed in this case on the 6th of February 2020. The applicant had however put his papers before the OC Prison for sanctioning on the 21st of January 2020.

From all the circumstances shown in the evidence adduced in the affidavit, it is my view that this is a proper case for extension. The holiday season is notoriously slow in Uganda and many public offices operate at a fraction of their usual capacity. That explains the complaints cited which prevented the applicant to file a notice within the 14 days.

In view of the above the application to extend time within which to appeal is hereby granted.

Michael Elubu Judge 19.3.21