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The Republic of Uganda

In the High Court of Uganda Holden at Soroti

Criminal Miscellaneous Application No. 25 of 2023

(Arising Katakwi Chief Magistrate's Court Criminal Case No. 148 of 2023)

10 Otim Francis Applicant

Versus

Uganda Respondent

Before: Hon Justice Dr Henry Peter Adonyo

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Ruling

This application was brought for extension of time within which to appeal and additionally for leave to be granted to appeal. It was filed on 8th June 2023 through M/s Kajeke, Maguru & Co. Advocates.

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The application was set for hearing on 16th August 2023 at 9 a.m., although there is no record of what transpired on that day, I note that the Deputy Registrar of this court in an internal memorandum addressed to me wrote thus;

"The applicant has not followed up on their application of leave to file an appeal out of time. The state prayed that the same had been overtaken by events and for dismissal."

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It would appear that the applicant and or counsel after the filing this application on 8th June 2023 did not make any follow up of it and clearly gave no reason for

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5 doing so and so that could be the reason why the respondent prayed for its
dismissal on the basis that it is already overtaken by events , though there is not
disclosed what events.

However, I have perused the file and find that it is true that the applicant has
clearly failed to follow up on his application in line with the provisions of Section
10 44 of the Criminal Procedure Code Act, Cap 116 which provides for applications
of this nature thus;

Section 44. Dismissal of appeal for want of prosecution:

(1) The appellate court may dismiss an appeal for want of prosecution—

(a) if the appellant, at any time before the appeal is determined, escapes from
15 custody or fails to appear after he or she has been released on bail; or

(b) 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.

(2) Notwithstanding subsection (1), the appellate court may consider and
determine an appeal in the absence of the appellant and may make such other
20 order as it thinks fit.

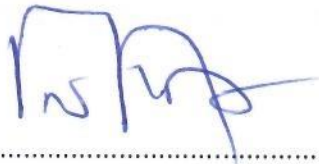
(3) Where on the dismissal of an appeal under section 42 or this section any
sentence of imprisonment or of a fine remains to be served or paid, the appellate
court may issue a warrant of arrest or make such other order as it deems necessary
to enforce the execution of the sentence.

25 This application falls within the ambit of Section 44(1) (b) above as the appellant
has failed to take any necessary step in prosecuting his appeal within the time
allowed and has abandoned his application for extension of time without any
reason being given.

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Accordingly, the application is dismissed for none prosecution with no order as to costs.

I so order.



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Hon. Justice Dr Henry Peter Adonyo

Judge

12th April 2024

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