

Citation	Parties	Legal Principles Discussed
<p>CRIMINAL APPLICATION NO. 3 OF 2005- COURT OF APPEAL OF TANZANIA AT DODOMA- MUNUO, J, A.</p>	<p>IJUMA % OMARY AND ANOTHER Vs. THE REPUBLIC (Application for Leave to Appeal out Time from the Order of the High Court of Tanzania at Dodoma- Criminal Appeal No. 43 of 1998- Kileo, J.)</p>	<p>Upon conviction by the trial court on the 5/5/ 1998, the applicants, in compliance with the precisions of Section 361 (1) (b) of the crucial Procedure Act., 1985, Cap. 20 R. E. 2002 lodged their notice of appeal on the 15/5/ 1998, within the statutory period of ten days. They subsequently filed their memorandum of appeal within time on the 27/7/ 1998 after copies of judgment and proceedings were duly served on them on the 03/07/ 1998 so the applicants complied with the provisions of Section 361 (b) of the Criminal Procedure Act, Cap. 20 R. E. 2002.</p>

**IN THE COURT OF APPEAL OF TANZANIA
AT DODOMA**

CRIMINAL APPLICATION NO. 3 OF 2005

IJUMA % OMARY AND ANOTHER.....APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

**(Application for Leave to Appeal out Time
from the Order of the High Court of
Tanzania at Dodoma)**

(Kileo, J.)

Dated 20th day of July, 1998
in
Criminal Appeal No. 43 of 1998

ORDER

MUNUO, J, A.:

On the 07/09/ 1999, Kileo, J. as she then was, struck out (DC) Criminal Appeal No. 43 c/f 39 of 1998 in the High Court of Tanzania at Dodoma, on the ground that it was time barred. The applicants thereafter filed the present application to challenge the order of the High Court. The application is supported by a joint affidavit of the applicants stating that their appeal was filed within time so the High Court erroneously struck it out.

Mr. Mwampoma, learned Principal State Attorney, conceded to the application. He observed that upon conviction by the trial court on the 5/5/ 1998, the applicants, in compliance with the provisions of Section 361 (1) (b) of the Criminal Procedure Act., 1985, Cap. 20 R. E. 2002 lodged their notice of appeal on the 15/5/ 1998, within the statutory period of ten days. They subsequently filed their

memorandum of appeal within time on the 27/7/ 1998 after copies of judgment and proceedings were duly served on them on the 03/07/ 1998 so the applicants complied with the provisions of Section 361 (b) of the Criminal Procedure Act, Cap. 20 R. E. 2002. The learned Principal State Attorney, therefore, rightly conceded to the application.

Under the circumstances, the Order Striking out the High Court Criminal Appeal was erroneous. I accordingly quash and set aside the Order. I further Order that (DC) Criminal Appeal No. 43 of 1998 in the High Court of Tanzania at Dodoma be restored for hearing and determination by the High Court.

In the result the application is allowed in the above terms.

DATED at DODOMA this 14th day of June, 2007.

E. N. MUNUO
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

S. M. RUMANYIKA
DEPUTY REGISTRAR