

**ISAAC MUUNGANIRWA**

**Versus**

**THE STATE**

IN THE HIGH COURT OF ZIMBABWE  
MOYO J  
BULAWAYO 22 JANUARY 2022

**Application for condonation of the late noting of appeal**

**MOYO J:** I dealt with this matter in chambers and dismissed the application on 30<sup>th</sup> of September 2015. The reason was that the appeal had no prospects of success.

Applicant has requested for detailed reasons and here are they.

The applicant filed a notice of appeal which espoused the following grounds.

1. It is respectfully submitted that applicant filed his appeal within the stipulated regulatory period, however prison authorities responsible for the conveying of the papers delayed the process. There are no issues with the reasons for the delay.
2. It is respectfully submitted that applicant's conviction in the court *a quo* was in error. The state case lacked evidence and only dwelt on character assassination by producing newspaper clips.

The contention in this second ground of appeal is clearly unfounded. The court *a quo* did not use the newspaper clips in its judgment, in fact it alludes to the evidence as given by the state witnesses. The court *a quo* dismissed accused's version and found the state witnesses credible. Issues of credibility are the province of the trial court. The trial court carefully assessed the evidence tabulated before it resulting in the conviction.

3. The other ground is that justice was not tampered with mercy given the fact that applicant was in custody from 2006 serving a different sentence and that he wants the current sentence to run concurrently.

Again sentencing is the province of the trial court and unless a clear misdirection, the appellate court cannot interfere. No case is made at all for the sentences in the unrelated matters to run concurrently.

Condonation must be clearly tied to reasonable prospects of success for it to be granted. It is not granted for the mere asking neither is it granted simply because an accused wants to try his luck on appeal.

I declined the order for the clear reason that there are no reasonable prospects of success on appeal hence no case was made for the relief applicant was seeking.