

CHRISTOPHER CHIGUBHU  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
MUREMBA J  
HARARE, 6 April 2021

### **Chamber Application**

MUREMBA J: The application for condonation for late noting of appeal and leave to prosecute the appeal in question is dismissed. The reasons are as follows.

The trial magistrate properly canvassed the essential elements of the offence. From the responses the applicant gave, it is clear that his plea of guilty was unequivocal. The applicant clearly admitted to the charge. There is no explanation why he is now seeking to depart from the plea he tendered. His prospects of success on appeal are nil.

The delay in filing this application was inordinate and the applicant's explanation is not satisfactory. He was convicted and sentenced on 8 July 2019. The record of proceedings was transcribed and signed by the trial magistrate on 19 August 2019, just a month later. The present application was filed on 21 October 2020, more than a year after the record had been transcribed: The excuse of COVID-19 is a lame one. The first lock-down started on 29 March 2020. There is no explanation why the application was not filed between August 2019 and March 2020, a period of 7 months.

The sentence is not unduly harsh. The applicant was not a first offender when he was convicted. He had a previous conviction of indecent assault which had a suspended sentence. The sentence imposed meets the justice of the case.

It is in view of the foregoing that I dismiss the application.