

PHILIMON MUGIJIMA  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
CHIKOWERO J:  
HARARE, 8 July 2022

### **Chamber Application**

#### **CHIKOWERO J:**

1. On 8 March 2017 the applicant pleaded guilty to 3 counts of stocktheft as defined in s 114 (2)(a)(i) and (ii) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*].
2. He was convicted on all three counts.
3. Following a finding that there were no special circumstances, the magistrates court imposed a sentence of 9 years imprisonment on each count. This brought the total sentence to 27 years imprisonment.
4. On 18 April 2019 the applicant was granted leave to appeal out of time as well as leave to prosecute the appeal in person. This related to an appeal against the sentence only.
5. On 4 December 2019 the supposed appeal was struck off the roll because the grounds of appeal were fatally defective.
6. This effectively meant that the appeal was a nullity.
7. This notwithstanding, the applicant, on 6 April 2022, filed the present application. It is headed “Application for reinstatement of appeal”. He has cited the case number of the appeal which was struck off the roll on 4 December 2019.
8. There is no appeal which is pending.
9. There is no appeal to reinstate on the criminal appeals court roll.
10. This application is improperly before the court.
11. In the result, the application for reinstatement of the appeal be and is struck off the roll.

*The National Prosecuting Authority, respondent’s legal practitioner*