

MUNYARADZI DHAU
versus
THE STATE

HIGH COURT OF ZIMBABWE
CHIKOWERO J
HARARE, 11 July 2022

Chamber Application

CHIKOWERO J:

1. This is an application for leave to appeal out of time and to prosecute the appeal in person. The applicant is dissatisfied with his conviction on two counts of rape as defined in s 65 of the Criminal Law Code. He also is aggrieved by the sentence of 15 years imprisonment imposed on him in respect of each count. Of the total 30 years imprisonment the trial Court suspended 5 years imprisonment for 5 years on the usual conditions of good behaviour.
2. This application was filed on 4 June 2020. It could, then, have been struck off the roll because a copy of the record of proceedings was not attached to the application.
3. Following exchange of correspondence between the applicant and the Registrar of this Court, the former filed copy of the record of proceedings on 24/03/22. He then sought, in addition, leave to prosecute the appeal in person.
4. The applicant was convicted and sentenced on 5 May 2015.
5. The delay in seeking to appeal is inordinate. As I write this judgement, the applicant has been serving for the past seven years.
6. This is an appropriate case warranting the dismissal of the application whatever the prospects of success on appeal may be.
7. The applicant has exhibited a flagrant disregard of the rules of this court to such an extent that it becomes unnecessary to assess his reasons for the late filing of the application
8. To proceed otherwise would be to encourage litigants to abuse court process.

9. In the result, the application for leave to appeal out of time, in respect of both the conviction and sentence, and for leave to prosecute such appeal in person, be and is dismissed.

The National Prosecuting Authority, respondent's legal practitioners.