

FIRST GASURA
versus
THE STATE

HIGH COURT OF ZIMBABWE
CHIKOWERO J
HARARE, 8 September 2022

Chamber Application

CHIKOWERO J:

[1] This case demonstrates the need for contingent measures to be taken to curtail the abuse of the criminal justice system by litigants pending court operations becoming fully paperless.

[2] On 10 August 2018, under HCA (COND) 65/18, MOYO J sitting at the High Court, Bulawayo dismissed First Gasura's application for leave to appeal out of time in respect of the sentence imposed on him by the Regional Court sitting at Gokwe on 16 September 2016.

[3] Gasura is the applicant in this matter.

[4] Undeterred and having decided to shop for a different judicial officer, the applicant, on 16 September 2020, filed a similar application (this time expanded to include a proposed appeal against the conviction and leave to prosecute the appeal in person). This he filed at the High Court in Harare.

[5] I dismissed the application for leave to appeal the conviction out of time and to prosecute such intended appeal in person. The application was without merit. I struck off the roll the application for leave to appeal the sentence out of time and to prosecute such intended appeal in person because this court was *functus officio*, having pronounced itself on the same issue at Bulawayo in 2018. I rendered the order under CON 342/20, on 7 December 2020.

[6] Almost a year later (on 29 November 2021) the applicant requested written reasons for my decision. I availed the same under HH 699-21.

[7] Still undeterred, the applicant, on 17 August 2022, has filed yet another application for leave to appeal the conviction and sentence out of time and to prosecute such intended appeal in person. This is the present application filed under case number CON 207/22. I think the applicant was hoping that the chamber application would land on the desk of a third judge of this court. He is still, regrettably, judge shopping.

[8] This application is improperly before me. This court has already dismissed the applicant's bids to appeal out of time against his conviction for the offence of raping his two young daughters and the 17 year sentences imposed on him on each count. Of the total 34 years' imprisonment, the learned magistrate suspended 4 years for 5 years on the usual conditions of good behaviour.

[9] The application will thus be struck off the roll.

[10] In the hope that the Administration Office at Chikurubi Maximum Security Prison will be able to assist in forestalling the filing of yet another application by this litigant, a copy of this judgment will be availed to the Officer-In-Charge of Chikurubi Maximum Security Prison.

[11] In the result, the following order shall issue:

1. the application for leave to appeal the conviction and sentence under CRB GKR 24/16 out of time and to prosecute such intended appeal in person be and is stuck off the roll.
2. The Registrar of the High Court is directed to furnish the Officer-In-Charge of Chikurubi Maximum Security Prison with a copy of this judgment.

The National Prosecuting Authority, respondent's legal practitioners