

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT KISUMU

(Coram: Law, J A (in chambers))

CRIMINAL APPLICATION NO NAI 1 OF 1983 (KMU1/83)

(in the matter of an intended appeal)

BETWEEN

THOMAS NYAMBENE ANYEGAAPPLICANT

AND

REPUBLIC.....RESPONDENT

(Application for extension of time to file a Notice of Appeal in an intended appeal from a judgment of the High Court of Kenya at Kisii (Aganyanya Ag. J) dated 15th June, 1982 in

Criminal Appeal No 82 of 1982)

RULING

The delays in this case have not been serious in my opinion, having regard to the fact that the applicant is in prison and to the consequential difficulties in obtaining and giving instructions. As regards the prospects of success, this seems to have been a fairly bad case of dangerous driving, but it does not seem to me that to deprive a professional driver of his licence - and therefore of his livelihood - for ten years, in addition to a heavy prison sentences, is arguably and excessive punishment, especially as this was a first offence and the applicant had pleaded guilty. In all the circumstances, I think sufficient reason within rule 4 has been shown for giving the applicant a chance to appeal to this court to set aside the summary rejection of his appeal to the High Court, so that the appeal to the High Court can be heard on its merits - I allow this application, and extend time for filing the notice of appeal in this case so as to validate the late filing on 5th October 1982.

Dated at Kisumu this 22nd day of February, 1983.

E J E LAW

JUDGE OF APPEL