



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: A.K. MURGOR J.A.)

CRIMINAL APPLICATION NO. 10 OF 2015

BETWEEN

D O OAPPLICANT

AND

REPUBLIC RESPONDENT

(An application seeking leave to extend time to file an appeal from the original sentence of the High Court of Kenya at Eldoret

(Justice F. Ochieng, J) dated 19th December, 2013.

in

ELDORET H.C.R.A. NO. 31 OF 2010)

RULING

In the Chamber Summons filed on 10th June, 2015, the applicant **D O O** has sought leave to extend time to file an appeal from the sentence of the High Court at Eldoret, as well as to obtain orders for the transfer of the intended appeal from the Court of Appeal sitting in Eldoret to this Court.

In his submissions before me, the applicant stated that he is currently serving his prison sentence in Kisumu Prison, and the reason for seeking the transfer of his appeal was his ill health on account of his HIV status and the distance required to travel to Court to attend to his appeal.

Mr. Ketoo, learned counsel for the State did not oppose the application for leave to extend time to file an appeal against sentence. Counsel however opposed the application to transfer the applicant’s intended appeal from Eldoret to Kisumu for reasons that the grounds for transfer advanced by the applicant were insufficient to warrant such transfer.

I have considered the application and the submissions of the parties.

With respect to the application to transfer the intended appeal from Eldoret to Kisumu, having regard to the applicant’s ill health on account of his HIV status, I see no difficulty in the transfer of the file from

Eldoret to Kisumu. The reason being that since the applicant is currently serving his sentence in Kisumu Prison, it would be more convenient and cost effective to hear the appeal in Kisumu rather than in Eldoret. Not to mention that it would be more humane for the applicant to attend to his appeal in Kisumu instead of travelling the unnecessary distance to Eldoret particularly having regard to his ill health.

I am also inclined to grant leave to extend time to file the intended appeal. In view of the foregoing, the application to transfer the intended appeal from Eldoret to Kisumu is hereby granted, I order that the intended appeal be filed at Kisumu within the next one (1) month from the date of this order.

Dated and delivered at Kisumu this 22nd day of September, 2015.

A. K. MURGOR

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JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR