

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT KISUMU
CORAM: SHAH, J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI.38 OF 2002 (KSM.20/2002)

BETWEEN

TIMOTHY AYIEKO OLINGOAPPLICANT

AND

REPUBLICRESPONDENT

**(An application for extension of time to lodge an appeal
out of time from a Judgment of the High Court of Kenya
at Kisumu (Mr. Justice B.K. Tanui) dated 9th November,
2001**

**in
H.C.C.C.R.A 109 OF 2001)**

R U L I N G

The applicant was convicted of the offence of causing grievous bodily harm contrary to section 234 of the Penal Code. He was sentenced to serve 4 years imprisonment. His first appeal to the High Court was dismissed. He wishes now to appeal to this Court for which purpose he is seeking extension of time to lodge his notice of appeal.

The respondent opposes the application on the ground that the application discloses no point of law on mixed fact and law which would entitle the applicant to successfully mount an appeal. I am not really concerned with the alleged irregularities in the dates of filing of this motion. The motion is filed on 24th July, 2002. Supported by an affidavit sworn on 23rd May, 2002. There is nothing wrong in the manner the application is brought up. The only problem is that in the intended appeal would be an exercise in futility. I dismiss this application.

Dated and delivered at Kisumu this 25th day of November, 2002.

A. B. SHAH

JUDGE OF APPEAL

NOTE: The applicant complains of health problems, particularly diabetic. I direct the prison authorities to have him regularly treated if what he says is correct.

A. B. SHAH

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR