

exercises its discretion the party must show that they are not at fault or deserve the court's mercy and are vigilant. The Court of Appeal in **Peter Muramira vs. Brian Kaggwa, Civil Application No. 104 of 2009**, observed that:

45 *It is the duty of every intending appellant to be seen taking an active role within the time stipulated by the rules to prosecute his or her appeal.*

Hence, an applicant who craves the court's permission to reinstate a dismissed appeal must show that they were prevented by sufficient cause from prosecuting it. In addition, the Applicant must show that they have an arguable appeal warranting a place in the court's docket.

50 I am persuaded by the Applicant's arguments that they needed time to consult the Director of Public Prosecutions for guidance on proceeding with the appeal. In taking this position, I am aware that the Office of the Director of Public Prosecutions is charged with heavy responsibilities of overseeing all prosecutions in the country and sometimes is overwhelmed with work, just as it happened in this matter. I am equally persuaded by the Applicant's vigilance in promptly filing the Application for reinstatement of the appeal after I dismissed it. I am, 55 therefore, satisfied that this is a proper case for which I should exercise my discretion under Section 33 of the Judicature Act to reinstate the Appeal.

Decision

The Appeal is reinstated. I direct the Applicant to file the Memorandum of Appeal within 14 days from the date of this decision. It is so ordered.

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Gadenya Paul Wolimbwa

JUDGE.

18th March 2024.