

**CASE NO.: 85/2008**

**“Not Reportable”**

**IN THE HIGH COURT OF NAMIBIA**

**In the matter between:**

**BEN KAMAZE**

**Appellant**

**vs**

**THE STATE  
CORAM:**

**Respondent  
PARKER, J et UNENGU, AJ**

Heard on: 2010 February 11

Delivered on: 2010 February 11

## **APPEAL JUDGMENT**

**PARKER, J** [1] The Notice of Appeal in this matter was filed out of time according to the date stamp of the Windhoek Magistrates' Court.

[2] And in terms of Rule 27(3) of the Rules of Court, the Court may only condone the late filing of such Notice, if there is an application properly before the Court in which the appellant explains to the satisfaction of the Court the reasons for the late filing and also show the Court that there are reasonable prospects of success. What is more; in the instant case, the appellant knew as far back as 21 September 2009 that the State would raise such preliminary objection, and yet no applications for condonation was filed with the Court. We cannot accept the reason the appellant now gives to the Court from the dock.

[3] The law is very clear and we must not be seen as not following the decision of this same Court on the strict requirement of a formal application to condone late filing of Notice of Appeal.

[4] That being the case there is no appeal properly before the Court and the matter is dismissed.

**PARKER, J**  
**I agree**

**UNENGU, AJ**  
**COUNSEL ON BEHALF OF THE APPELLANT:** In Person

**COUNSEL ON BEHALF OF THE RESPONDENT:** Mrs Nyoni

**Instructed by:** The Office of the Prosecutor-General