



If the appellant or an advocate on his or her behalf indicates at the time of filing a notice of appeal that he or she wishes to peruse the judgment or order appealed against before formulating the grounds of appeal, he or she shall be provided with a copy of the judgment or order, free of charge, and the grounds of appeal shall be lodged with the registrar within fourteen days of the date of the service on him or her of the copy of the judgment or order.

This provision is couched in mandatory terms: an appellant who elects to peruse the judgment or order before formulating grounds of appeal, and who is thereafter served with that record, must lodge the grounds of appeal within fourteen days of service. The use of the word “shall” admits of no discretion. Calculated from the date of service on 27th February 2026, the Appellant was obliged to file the memorandum of appeal by 14th March 2026. No memorandum was filed by that date, and none has been filed to date. For unexplained reasons, the Appellant allowed the statutory window to lapse.

#### **Effect of non-compliance with Mandatory timelines in the law**

The consequence of non-compliance with the mandatory filing requirements governing the commencement and institution of a criminal appeal is well settled in this jurisdiction. In *Ngabirano Frank v Uganda, Criminal Appeal No. 1 of 2025*, the High Court (Ssemogerere, J.) held that an appeal commenced or prosecuted in disregard of the mandatory procedural steps prescribed under the Criminal Procedure Code Act is incompetent and liable to be struck out. The Court emphasised that compliance with the statutory timelines and modes for commencing and instituting a criminal appeal is a threshold question of jurisdiction, to be resolved before any consideration of the appeal's substantive merits.

This position accords with the broader principle applied to appeals generally: that the mere lodging of one document in the appellate process, without the other mandatory steps, does not constitute a competent appeal. Similarly, the court has held that failure to file a memorandum and record of appeal within the prescribed statutory period, the word “shall” having been used, renders the appeal incompetent and liable to be treated as withdrawn, with the absence of a formal appeal foreclosing any inquiry into its arguability or merit.

The Supreme Court has likewise held, in **Beatrice Kobusingye v Fiona Nyakana & Another, SCCA No. 18 of 2001**, that the documents prescribed by law as essential to the institution of an

appeal are precisely that — essential; their absence renders the appeal incompetent and liable to be struck out, since such documents indicate that an appeal merits the consideration of the appellate court.

60 It is therefore firmly established that the timelines prescribed under the Criminal Procedure Code Act for the filing of a memorandum or grounds of appeal are not mere guidelines but mandatory jurisdictional requirements. Where an appellant fails, without lawful excuse or an order extending time, to comply with them, the resulting appeal is incompetent and cannot be entertained on its merits.

### **Application to the Present Case**

65 Applying these principles to the facts before me, the Appellant was served with the record of the lower court on 27th February, 2026 for the purpose of formulating grounds of appeal under Section 28(3) of the Criminal Procedure Code Act. The fourteen-day period prescribed by that provision expired on 14th March 2026, without a memorandum of appeal being filed. No application for an extension of time was made under Section 31 of the Act, nor has any explanation been offered for  
70 the default.

In light of the mandatory nature of Section 28(3), I find that this appeal is incompetent for want of a memorandum of appeal filed within the time prescribed by law.

### **Decision**

75 For the foregoing reasons, this appeal is incompetent and is accordingly dismissed. The Appellant is at liberty, should it remain interested in pursuing the appeal, to apply for an extension of time within which to file the memorandum of appeal under Section 31 of the Criminal Procedure Code Act, supported by an affidavit disclosing sufficient cause for the delay.

It is so ordered.



Gadenya Paul Wolimbwa

80 **JUDGE**

30th June 2026