

**THE AFRICAN COURT ON HUMAN & PEOPLE'S  
RIGHTS AT ARUSHA**

IN THE MATTER OF THE COURT OF APPEAL OF TANZANIA AT Tabora  
CRIMINAL APPEAL No. 94 OF 2008

- AND -

IN THE MATTER OF THE HIGH COURT OF TANZANIA AT  
Tabora

CRIMINAL SESSION CASE No. 12 OF 1999 AT THE DISTRICT COURT OF  
NZEGA DISTRICT AT NZEGA  
BETWEEN

NGASA NHABI ----- APPLICANT

AND

UNITED RESPONDENT OF TANZANIA  
ATTORNEY GENERAL

} RESPONDENT

**EXECUTIVE SUMMARY OF THE APPLICATION**

Made under rule 19 of the court's rules from provision No. 17 and 19 of practice Direction.

I, the above named applicant request this honorable court of Justice, Human and people's rights to allow lodging a memorandum of complaints of violation of human right and Justice occasioned to me by the court of Appeal of Tanzania, being the highest court in this country for the following reasons inter- alia.

1. **THAT**, the applicant was committed and sentenced to suffer death by hanging on 7/03/2008 by the High court of Tanzania sitting at Tabora on an information for murder C/S 1996 of the Tanzania's penal code character 16 vol. 03 of the Laws in a criminal session case No. 122 of 2001, the decided on which was upheld by the court of Appeal of Tanzania Criminal Appeal No 94 of 2008.
2. **THAT**, This judgment of the court of Appeal of Tanzania which was pronounced on 24/06/2011 was procured by arrows against the applicant where the court of Appeal had not evaluated the evidence of the prosecution side widely. Thus, upholding the weight of the evidence.
3. **THAT**, the court of Appeal failed to establish there the clothes (black shirt) mentioned by Pus 01 to the court to have been ware by the applicant during the commission of the offence are different from those mentioned by the same miterers at police. Hence, this cement inter- alia, the doubted credibility of pus 01 to the extent that his visual identification evidence ought not to be realized upon by the court.
4. **THAT**, the court of Appeal erred in law for failure to consider that the lower court anomaly convicted the applicant based on exhibit P2 (knife) without detailed information on how that exhibit was retrieved and its origin.
5. **THAT**, the court of Appeal erred when upholding the communication without considering that the evidence of Pus 01 and Pus 02 did not establish that committed the inference of murder.

- THAT, the applicant as appellant in the aforementioned criminal appeal had submitted memorandum of appeal and its addition within both several grounds at the meaning of the appeal had argued and elaborated all grounds.
- 7. THAT, according to the copy of judgment, the court of Appeal had not considered all the words. This procedure of the court had isolated the applicant as it was violating the fundamental rights of being heard in the court of law as required by Article 3(2) of the character of the court leading to prejudice.
- 8. THAT, this applicant humbly prays that, this court to restore justice where it was overlooked and quash out both the commutation and sentence imposed upon him at liberty.
- 9. THAT, this court may arrange any other order(s) that it may deem fit and just to arrange in circumstance of this application.

10. THAT, this application is intended to be supported by a submission of complaint of violation of human rights and justice accompanied with a copy of the judgment of the court of Appeal and /or any other columned relevant to this application

VERIFICATION: This executive summary of the application has been at UYUI CENTRAL PRISON at Tabora and signed by myself.

Dated at Tabora on this 06 day of 11 2017

\_\_\_\_\_  
 NGASA NHABI  
 APPLICANT

CERTIFICATION: I, the officer in charge UYUI CENTRAL PRISON, do here by certify that this executive summary has been prepared by the applicant himself and endorsed before me on this 06 day of 11 2017

  
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 FOR OFFICER INCHARGE  
 UYUI CENTRAL PRISON  
 TABORA



Lodged at the Registry office of the  
 AFCHPR at ARUSHA, TANZANIA  
 P.O. BOX 6274, ARUSHA on this \_\_\_\_\_ Day of \_\_\_\_\_ 2017

\_\_\_\_\_  
 REGISTER OF THE COURT  
 AFCHPR AT ARUSHA

**DRAWN & FILED BY:**  
 NGASA NHABI (APPLICANT)

**COPY TO BE SERVED UPON:**  
 THE UNITED REPUBLIC OF TANZANIA,  
 ATTORNEY GENERAL'S CHAMBER,  
 P.O. BOX 11492,  
 DAR - FS - SAALAM.