

**PRESS RELEASE  
JUDGMENT SUMMARY**

**BENEDICTO DANIEL MALLYA V. UNITED REPUBLIC OF TANZANIA**

**APPLICATION NO. 018/2015**

**JUDGMENT ON MERITS**

**26 SEPTEMBER 2019**

**A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS**

**Date of Press Release:** 26 September 2019

**Arusha, 26 September 2019**, Today, the African Court on Human and Peoples' Rights (the Court) delivered judgment in the case of *Benedicto Daniel Mallya v. United Republic of Tanzania*.

Mr Benedicto Daniel Mallya (the Applicant), is a national of the United Republic of Tanzania. He was convicted on 16 May 2000 of the rape of a seven (7) year old girl and sentenced to life imprisonment in Criminal Case No. 1142 of 1999 before the District Court of Moshi. He was fifteen (15) years old at the time he was sentenced. He alleged the violation of his rights under the African Charter for Human and Peoples' Rights (the Charter), specifically, Articles 6, on the right to liberty and 7 (1) (a) and (d) on the right to appeal and the right to be tried within a reasonable time, respectively.

The Applicant alleged that on 19 May 2000, he filed a Notice of Appeal to the High Court of Tanzania at Moshi challenging his conviction and sentence. He further alleged that since filing the Notice of Appeal, he was not provided with certified true copies of the record of proceedings and judgment to enable him file his appeal at the High Court despite several letters he sent to the District Registrar of the High Court of Tanzania at Moshi.

The Applicant submitted that he filed a constitutional petition at the High Court of Tanzania seeking to enforce his constitutional rights under Article 13(6) (a) of the Constitution of the United Republic of Tanzania, but that the process was hindered

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by difficulties. The Applicant filed the Application before this Court on 1 September 2015.

On 9 February 2016, the High Court at Moshi, of its own motion, called for the Applicant's records in Criminal Appeal No. 74 of 2015. Subsequently, on 15 February 2016, it ordered a hearing of the appeal and that the memorandum of appeal be served on the Applicant. According to the Respondent State, on 22 February 2016, the appeal was considered in the Applicant's presence and the Prosecution did not object to the appeal. Consequently, the High Court then allowed the appeal, quashed the conviction, set aside the sentence and ordered the Applicant's release after casting doubt on the evidence relied upon by the District Court of Moshi. The Applicant alleged that sometime in May 2016, after serving fifteen (15) years and nine (9) months in prison, he was released.

The Court's jurisdiction was not contested by the Parties. The Court, unanimously, held that it had jurisdiction to hear the matter pursuant to Article 3(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol). The Court considered the admissibility of the Application and unanimously found that it complied with the provisions of Article 56 of the Charter and Rule 40 of the Rules of Court, and declared the Application admissible.

On merits, the Court unanimously found that the Respondent State violated the Applicant's right to liberty guaranteed by Article 6 of the Charter by failing to place at his disposal procedural guarantees which would have made it possible to avoid his continued arbitrary imprisonment in view of the fact that he was acquitted on appeal.

Concerning the alleged violation of the right to appeal and the right to be tried within a reasonable time, the Court unanimously found that the Respondent State violated the Applicant's right to appeal under Article 7(1) (a) and (b) of the Charter by failing to provide the Applicant with certified true copies of the record of proceedings and judgment within a reasonable time.



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The Applicant prayed the Court to order reparations while the Respondent State prayed the Court to declare that it has acted in good faith by releasing the Applicant and that this is sufficient reparation. The Court noted that the Applicant had not made detailed submissions on reparations, however because of the seriousness of the violations established, declared that it will rule on reparations and costs at a later stage.

**Further Information:**

Further information about this case, including the full text of the decision of the African Court, may be found on the website at: <http://www.african-court.org/en/index.php/56-pending-cases-details/883-app-no-018-2015-benedicto-daniel-mallya-v-united-republic-of-tanzania-details>

For any other queries, please contact the Registry by email [registrar@african-court.org](mailto:registrar@african-court.org) and [africancourtmedia@gmail.com](mailto:africancourtmedia@gmail.com)

*The African Court on Human and Peoples' Rights is a continental court established by African countries to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at [www.african-court.org](http://www.african-court.org)*