



**Case Summary: Application No. 023/2016**

***YAHAYA ZUMO MAKAME AND OTHERS (Applicants)***

**V.**

***THE UNITED REPUBLIC OF TANZANIA (Respondent)***

**Summary of Facts**

1. The Applicants, Mr. Yahaya Zumo Makame, Mr. Mohamedi Gholumgader Pourdad, Mr. Salum S/O Mohamed Mpakarasi and Mr. Said S/O Ibrahim, are convicts currently serving a 25 years sentence in Maweni Central Prison, Tanga, United Republic of Tanzania following their conviction of the crime of drug trafficking by the High Court of Tanzania sitting at Tanga. The first, third and fourth Applicants are Tanzanians whereas the second Applicant is an Iranian citizen. All Applicants bring their case against the United Republic of Tanzania.

**Complaints**

2. The Applicants have brought their Application on the basis of their conviction and sentence to 25 years imprisonment for committing a crime of drug trafficking in contravention of the Traffic Narcotic Drugs C/S 22 (a) and 25 of the Drugs and Prevention of Illicit in Drugs Act [Cap. 95 R. E. 2002].
3. The Applicants assert that, after their conviction by the High Court of Tanzania, they filed notice of their intention to appeal to the Court of Appeal of Tanzania.

Accordingly, they were provided with court records and prepared Memorandum of Appeal, which they subsequently lodged to the Court of Appeal. Then, on 10<sup>th</sup> of August 2015, they were summoned to appear before the Court of Appeals for the hearing of their appeal. On 16<sup>th</sup> September 2015, the Court dismissed the appeal for lack of merit.

4. The Applicants allege that, due to the absence of another layer of Supreme Court in Tanzania, they were unable to take their complaints to an alternative higher court in accordance with international rules of appeal recognized worldwide. According to the Applicants, this sustained an oppressive judicial system and led to the violation of their legal rights of Appeal. In their view, the existence of a Supreme Court would enhance judicial administration and ensures a quality justice in the country.
5. The Applicants also aver that the Court of Appeal, in its final analysis, erred in its assessment of the evidence held as exhibits. In particular, the Applicants argue that exhibits P. 9 and P. 10 (the gas lighters) were seized in the alleged two cars contrary to exhibit P. 15 certificate of seizure, which indicates that the said gas lighters were retrieved from a car make Toyota Rav. 4. Similarly, the cassava flour was seized in a car make Toyota Suzuki contrary to what is stated in the certificate of seizure of exhibit P. 15, which states that the said flour was found in Toyota Rav 4.
6. The Applicants further contend that the Court of Appeal failed to verify if the signatures of the Applicants were real given that during the trial, PW 6 A.S.P Salum Rashidi Hamdun mentioned that he did not allow the Applicants to sign Exhibit P. 12. Despite this, at the end of the day, Exhibit P. 12 bears their signatures.
7. In their Application, the Applicants also claim that both the Trial Court and the Court of Appeal applied double standard in their decision while convicting them

but acquitting the fifth Applicant. The Trial Court and the Court of Appeals acquitted the fifth Applicant, a father of the first Applicant, and who was the driver and owner of the car in which the exhibits were seized, stating that he was unaware of the fact that the exhibits were in the car. If the driver was unaware of what was aboard the car, the Applicants argue, how the Applicants who neither were on board nor a member of the family could be aware of what was in store to face a conviction.

8. The second Applicant additionally alleges that the Court of Appeal erroneously heard his appeal without considering his nationality and offering him an interpreter to ease up his understanding of the hearing.

#### **The Applicants` Prayers**

9. The Applicants pray for the Court to restore the rights violated by the Tanzanian judiciary.