

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

AT ARUSHA

APPLICATION NO. 026 OF 2016

C/F COURT OF APPEAL OF TANZANIA AT MWANZA

CRIMINAL APPEAL NO. 319 OF 2013

IN THE HIGH COURT OF TANZANIA AT MWANZA

CRIMINAL APPEAL NO 17 OF 2013

IN THE DISTRICT COURT OF NYAMAGANA AT MWANZA

ORIGINAL CR. CASE NO .....OF 20.....

BETWEEN

BENARD S/O BALELE .....APPLICANT

AND

THE UNITED REPUBLIC OF TANZANIA }

ATTORNEYGENERAL }

.....RESPONDENT

**EXECUTIVE SUMMARY OF THE APPLICATION**

[ MADE UNDER RULE 19 OF THE COURT RULES FROM PROVISION NO.17  
OF THE COURT PRACTICE DIRECTIONS]

I, The above named applicant request this honourable court of justice, Human and peoples' Rights to allow lodging a memorandum of complain of violation of Human Rights and justice for the following reasons :-

1. **THAT**, The applicant had been convicted and sentenced since 12<sup>th</sup>Feb.2009 to serve in jail life sentence in the above mentioned original case, then the decision upheld in the above noted criminal appeals.
2. **THAT**, The judgment of the court of appeal which had been pronounced on the 5<sup>th</sup> March.2013 was procured by err against the applicant and prejudiced to make review of it by the court of appeal where is not fixed for hearing.
3. **THAT**, The applicant as appellant in the super appeal submitted a memorandum of appeal and his addition within several grounds on hearing of the appeal hand argued all the grounds with supporting of presentive respondent.
4. **THAT**, According to a true copy of judgment the court of appeal had not considered all grounds then combined them to grounds; this procedure of the court had isolated the applicant as it was violating the fundamental right

of being heard in the court law as required by article 3 (2) of the charter of the court,

5. THAT, as, the applicant was/ has no legal representative his Right to be heard were/are deprived leading to prejudice thus position has violated the fundamental rights of the charter of the court contrary to article 7(1)(c) 8 (d) same article 1 and 107.A. (2) (d) of the constitution 1977.
6. THAT, The applicant humbly begs that, this court to restore justice where it was overlooking and quash both conviction and sentence imposed upon him and set him at liberty.
7. THAT, The applicant herein above on his own behalf wishes to be granted reparation pursuant to article 27(1) of the protocol of the court.
8. THAT, This court may grant other order (s) or relief (s) sought that may deem fit in the circumstance of the complaint.
9. THAT, The application is intended to be supported by a submission of complaints of violation of Human Right and justice accompanied with a copy of the judgment of the court of appeal.

This executive summary has been prepared by me/ applicant here at Butimba central prison in Mwanza and signed by myself, this 4<sup>th</sup> day of APR. 20 16

(RTP)   
\_\_\_\_\_  
APPLICANT

**CERTIFICATION:** - I hereby certify that this Executive summary has been drawn and signed by the applicant, but on and endorsed before me on this 4<sup>th</sup> day of APR. 20 16

(SGID)   
\_\_\_\_\_  
FOR; OI/c BUTIMBA C. PRISON

MWANZA - (T)

KILIMBUU WA CEREZA

BUTIMBA MW NZA

Lodged of the Registry office of the African court on Human and peoples' Rights,  
P.O. Box. 6274, Arusha – Tanzania.

This \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

(SGD) \_\_\_\_\_  
REGISTRAR OF THE COURT  
(ACHPR)

**SERVED UPON:-**

THE REPUBLIC OF TANZANIA

ATTORNEY GENERAL

P.O. BOX 11492

**DAR – ES – SALAAM, TANZANIA**

**DRAWN AND FILED BY:**

BENARD S/O BALELE 4/4/2016  .....APPLICANT

o/o O/c BUTIMBA CENTRAL PRISON

P.O.BOX 38

**MWANZA (T)**