

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
AT ARUSHA – TANZANIA

APPLICATION NO. 030 OF 2016

C/F FROM THE COURT OF APPEAL OF TANZANIA

AT BUKOBA

IN CRIMINAL APPEAL NO.315 OF 2015

ARISING FROM THE HIGH COURT OF TANZANIA

AT BUKOBA

IN CRIMINAL SESSION CASE NO. 37 OF 2014

ROMWARD WILLIAM..... APPLICANT

VERSUS

1. THE UNITED REPUBLIC OF TANZANIA }
2. ATTORNEY GENERAL }
RESPONDENTS

THE EXECUTIVE SUMMARY OF THE APPLICATION

(MADE UNDER RULE 19 OF THE COURTS RULES AND PROVISION 17 OF THE
COURTS PRACTICE DIRECTIONS)

YOUR, HONOURABLE JUSTICE,

I, the above named applicant do hereby request your Honourable court to be pleased grant leave of the applicant to file memorandum of complaints of VIOLATION of fundamental human rights and justice for consideration on the grounds viz,

01. THAT, the applicant was charged with the offence of murder which is contrary to the provision of section 196 of the penal code cap, 16 of the laws, Revised Edition of 2002.

02. THAT, the High court of Tanzania at Bukoba (MWANGESI. J.) in criminal/ session case No.37 of 2014 found the applicant guilty of MURDER and was sentenced to DEATH by hanging.

03. Dissatisfied the applicant appealed to the court of Appeal of Tanzania at Bukoba whereby his appeal was criminal appeal No.315 of 2015. The court of Appeal (MJASIRI, J.A) dismissed the appeal.

04. THAT, the judgment of the trial court and the court of Appeal shows that fundamental rights of the applicant was VIOLATED.

05. THAT, among the fundamental rights of the applicant which the trial court and the court of appeal violated were the INTENTION of the applicant to kill NDEKEZI – AUGUSTINE and the TIME when the killing made for failure to be

established or demonstrated, bad enough the DEFENCE EVIDENCE of the applicant was not evaluated also the reasons for the rejection of the evidence were not given.

- 06. THAT**, the trial court and the court of appeal made an IMPROPER and DISCRIMINATIVE evaluation of the evidence. The evidence adduced by the pw1 pw2, pw3, pw4 and the evidence of exhibit p2 (post-mortem examination Report) did not prove that the offence was committed by the applicant bad enough pw1, pw2 pw3 and pw4 appear to have been COUCHED on what to tell the court in order to implicate the applicant to be the one who killed the deceased.
- 07. THAT**, PW1 ALIBERA KATOTO, PW2 JOSEPHINA SPERATUS, PW3 sister DINNAH and PW4 ROSEMARY ROMWARD were incredible Witnesses, pw1 stated that the applicant did cut NDEKEZI AUGUSTINE on the EYE and the PALM, PW2, stated that the applicant did cut the deceased on head and pw3 stated that NDEKEZI had been cut with a panga on different parts of his body. The trial court and the court of appeal did not see the contradiction which the prosecution witnesses made and also the courts did not see that the Exhibit p2 which the court based to convict the applicant was required to be EXPUNGED from the list on the Exhibits evidence for the STRONG reason that the pw3 sister Dinnah who tendered this Exhibit in court was not the one who marked that document.
- 08. THAT**, the above grounds are the strong grounds of the applicant to show that what the trial court and the court of appeal made to the applicant was to VIOLETE his fundamental rights and also to discriminate and to exploit, where by discrimination and exploitation were prohibited in court and any other department which provide justice apart of that discrimination and exploitation is to VIOLATE the applicant's rights which is contrary to article 1, 2, 3, 5, 6, 7 (1) (b) 9 (2) of the African charter on the Human and peoples' Rights, and article 9 (a), (h), 13 (1) (2) (3) (4) (5), 6 (a) of the constitution of the United Republic of Tanzania, 1977.
- 09. THAT**, capital punishment which the trial court and the court of appeal sentenced the applicant is inherently in human, cruel and degrading, also the capital punishment VIOLATES the RIGHT to LIFE which is enshrined in the Universal Declaration of Human Rights to which Tanzania is a signatory, bad

enough it VIOLATES both article 13 (6) (d), (e) and article 14 of constitution of the United Republic of Tanzania, 1977 which carters for the right to life.

10. THAT, the applicant's request to this court is to be blessed to intervene the unconstitutional of the trial court and the court of appeal and VIOLATION of the fundamental rights against the applicant and RESTORE JUSTICE where it was overlooked by quashing both conviction and sentence of the applicant by the courts and SET the applicant FREE from the custody.

11. THAT, the applicant above named on the applicant own behalf wishes to be granted reparation pursuant to article 27 (1) of the protocol of the court and rule 34 (5) of the courts rules to remedy the VIOLATION.

12. THAT, this court may be pleased to grant any other order (s) or relief (s) that may deem fit and just to grant in the circumstances of the complaints.

13. THAT, the applicant prays to be facilitated with FREE legal representatives or legal assistance under rule 31 of the rules of the court and article 10 (2) of the protocol of the court.

14. THAT, the application will be supported by courts record of proceeding plus its judgments.

This application has been drawn and signed by the above named applicant at Butimba Central Prison on 25th the day of May 2016.

(RPT).....APPLICANT (ROMWARD WILLIAM)

VERIFICATION: I am verifying that this application has been drawn and signed by the above named applicant and endorsed before me this 25th day of MAY 2016.

(SGD)  NSP

For; Officer In charge
Butimba Central Prison
P.O.BOX 38, MWANZA.

MR. MKUU WA EREZA
BUTIMBA MWANZA

LODGED at the Registry office of the African on Human and Peoples' Rights
P.o.Box 6274 Arusha, Tanzania, this ___ day of _____ 2016.

(SGD) _____
REGISTRAR OF THE COURT
ACHPR – ARUSHA
TANZANIA