

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

CASE SUMMARY

APPLICATION NO. 016/2018

HUSSEIN ALLY FUNDUMU

V.

UNITED REPUBLIC OF TANZANIA

A. SUMMARY OF THE FACTS

1. Hussein Ally Fundumu (hereinafter referred to as “the Applicant”), is a national of the United Republic of Tanzania, who at the time of filing the Application, was serving a sentence of thirty (30) years imprisonment at Uyui Prison, Tabora Region, following a conviction for the offence of armed robbery. He alleges the violation of his rights during the proceedings at the national courts.

2. On 1 August 2004, at about 2:00 p.m. in Misha Village in the Tabora Region, the Applicant together with two others jointly charged but not appearing before the Court allegedly stole a mattress, a bicycle, a bag of clothing and a “*machete*” belonging to a married couple, Issa Khalfani and Asha Said. In the course of the robbery, the Applicant with his co-accused assaulted the couple with a *panga* wounding them badly and leading to their hospitalisation. Following the assault, the Applicant while escaping the scene of the crime discharged his gun into the air. He was thereafter arrested and charged with armed robbery. He was tried and convicted at the District Court of Tabora, and on 26 May 2005, and sentenced to 30 years imprisonment, while the other two co-accused were acquitted.

B. COMPLAINTS

3. The Applicant being aggrieved by the decision of the District Court of Tabora, appealed before the High Court of Tanzania at Tabora. On 31 August 2007, the High Court of Tanzania at Tabora dismissed the appeal for lack of merit and upheld the decision of the District Court on the grounds that the Applicant was clearly identified.
4. The Applicant being dissatisfied with the decision of the High Court of Tanzania at Tabora, appealed before the Court of Appeal of Tanzania at Tabora. On 18 June 2011, the Court of Appeal dismissed the Applicant’s appeal on the grounds that the doctrine of recent possession was correctly applied and upheld the decision of the High Court of Tanzania.
5. The Applicant alleges the violation of the following:
 - a. The right to freedom from discrimination guaranteed under Article 2 of the Charter.

- b. The right to equal protection of the law guaranteed under Article 3(1) of the Charter by denying him legal representation and to have his cause heard.
- c. The right to a fair trial under Article 7(1) (c) of the Charter read together with Article 10(2) of the Protocol.

C. APPLICANTS PRAYERS

6. The Applicant prays:

- a. The Court to protect all rights violated by the Respondent.
- b. The Application be deemed admissible.
- c. The Court to order reparation for violation of his rights.
- d. The Court to quash the sentence, acquit him and set him free.