

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		

APPLICATION NO. 005/2020

ALEXANDER MGUNDA ALIAS CHEKNORIS (APPLICANT)

VS

UNITED REPUBLIC OF TANZANIA (RESPONDENT STATE)

CASE SUMMARY

I. THE PARTIES

1. On the 24 January 2020, Alexander Mgunda Alias “Cheknoris” (hereinafter the Applicant) filed an Application at the Court against the United Republic of Tanzania (hereinafter referred to as the Respondent State).

II. SUBJECT OF THE APPLICATION

A. Facts of the Matter

2. On 13 October 2014, at Nduli area, Iringa, the Applicant, Alexander Mgunda also known as Checknoris and his co accused Mikidadi Usiga, alias “Afrika”, while armed with a club, a matchet and firearm stole: a pouch with cash Tsh.550,000/= (Tanzanian shillings five hundred fifty thousand only), Vodacom airtime credit vouchers worth 350,000/= (Tanzanian shillings three hundred fifty thousand only) and two Tecno 340 mobile phones with their sim cards from Happy Ignas and Mama Barton.
3. The District Court of Iringa convicted the Applicant on 2 December 2016, before Resident Magistrate Mpitanjia. J.M and sentenced the Applicant to thirty (30) years imprisonment for the offence of Armed robbery. The Applicant was also ordered to return the properties that he and his co-accused had stolen.
4. The Applicant appealed to the High Court of Tanzania at Iringa in *Criminal Appeal No. 04 of 2017* against the conviction, sentence and orders of the District Court of Iringa. On 11 August 2017 his appeal was dismissed by the High Court.
5. The Applicant then appealed to the Court of Appeal of Tanzania at Iringa in *Criminal Appeal No. 336 of 2017* against the conviction and sentence of the High Court of Tanzania at Iringa. On 30 August 2019, the Court of Appeal dismissed his appeal for lack of merit.
6. The Application was filed at the Registry of the Court on 24 January 2020.

B. Alleged violations

7. The Applicant alleges the violation of the following rights:

- i. Right to dignity provided under Article 3 of the Charter
- ii. Freedoms from torture and cruel inhumane treatment provided under Article 5 of the Charter
- iii. Provided under Article 10 and 14 (3)(g) of ICCPR
- iv. Provided under Article 13(6)(d) of the Constitution of the United Republic of Tanzania
- v. Right to fair hearing and legal assistance provided under Article 7(1) of the African Charter, Article 14(3) (d) of the ICCPR and Article 13(6) (a) of the Constitution of the United Republic of Tanzania.

III. PRAYERS OF THE APPLICANT

8. The Applicant prays, the Court to make the following Orders:

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- a. The Respondent State through its police officers act of treating the applicant arbitrary during arrest and investigation, is in violation of Article 3 and 5 of the African Charter, Article 10 and Article 14(3) (g) of the ICCPR and Article 13(6)(d) of the Constitution of the Republic of Tanzania.
- b. The Respondent State through its courts of law neglected the right of legal assistance of the Applicant, thus violates Article 7(1) of the African Charter, Article 14(3) (d) of the ICCPR and Article 13(6)(a) of the Constitution of the Republic of Tanzania.
- c. The Respondent State through its state agents/police officers withheld the confiscated the properties of the applicant unlawfully, hence violates Article 1(2) of the ICSECR and Article 34(1) and (2) of the Constitution of the Republic of Tanzania.
- d. The Respondent State orders the relevant authority returns the properties listed and compensate the applicant from the time he was denied to access his properties.
- e. The Respondent State order unconditional releases of the applicant because he was convicted out of procedural impropriety

- f. The Respondent State reports to this honourable court within the period of 12 months from the date of the judgment, on implementation of the judgement and consequential orders
 - g. Any other remedy and/or relief this honourable court will deem fit to grant and
 - h. The Respondent State to pay the costs of this application.”
9. The Applicant further prays for the following Orders in respect of the Reparations:
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- i. That this Court grant him monetary compensation for loss suffered by him based on the principle of equity to the tune of Tshs.12,000,000/= (Twelve million)
 - j. That the Court grant him moral compensation to the tune of 10,000,000/= (Ten million)
 - k. That the Court grant him moral compensation to his family as indirect victims to the tune of 10,000,000/= (Ten million)
 - l. To order the Applicant’s liberty
 - m. This Court to order the Respondent State to guarantee the non-repetition of violation of his rights and order it to report to this court every six (6) months until it satisfies the orders this court shall make on the entire application.
 - n. This Honorable court to make an order that the respondent state should publish the judgment of this Court in Public Gazette of the United Republic of Tanzania, in both English and Swahili as a measure of satisfaction.
 - o. Any other reparation as this Honorable Court deems fit, just and necessary to grant.”