



Arusha, Tanzania
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JUDGMENT SUMMARY

JACKSON GODWIN V. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 037/2016

JUDGMENT ON MERITS AND REPARATIONS

5 SEPTEMBER 2023

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Arusha, 5 September 2023: The African Court on Human and Peoples' Rights (the Court), today, delivered a Ruling in the case of *Jackson Godwin v. United Republic of Tanzania*.

Jackson Godwin (the Applicant) is a Tanzanian national who, at the time of filing this Application, was serving two concurrent thirty (30)-year sentences of imprisonment at Butimba Central Prison, in Mwanza, after he was convicted of armed robbery and rape.

The Applicant alleged that the Respondent State violated his rights in relation to proceedings before domestic courts. The Applicant submits that he was not informed of the ground of his arrest before being arrested by the police, in violation of his fundamental rights under section 23 of the Criminal Procedure Act Cap 20 RE 2002 and supported by Article 15(1)(2) of the Constitution of the United Republic of Tanzania, 1977.

The Applicant alleges that the Court of Appeal of Tanzania failed to properly determine matters of law and facts, thus violating Articles 2, 3 and 7(1) of the Charter and Article 107A(B) of the Constitution of the United Republic of Tanzania, 1977; and that the justice of appeal erred in law and facts by failing to observe that the defence witnesses were not called as required by Section 231 of the Criminal Procedure Act, Cap 20 RE 2002 and Article 13(6)(a) of the Constitution of the United Republic of Tanzania, 1977.

The Applicant prayed the Court to restore justice by quashing both his conviction and sentence

and set him at liberty; grant him reparations pursuant to Article 27(1) of the Protocol to the Charter; and make any other order that the Court deems appropriate in the circumstances of his case.

The Respondent State, on its part, prayed the Court to declare that it (the Court) is not vested with jurisdiction to adjudicate the Application; that the Application has not met the admissibility requirement provided by Rules 40(5) and 40(6) of the Rules of Court; and that the Application is inadmissible and should be duly dismissed.

The Respondent State further prayed the Court to find that it (the Respondent State) has not violated the Applicant's rights provided under Articles 2, 3 and 7(1) of the Charter; that the Application be dismissed in its entirety for lack of merit; that the Applicant's prayers be dismissed; that the Applicant should continue to serve his sentence; and that the Applicant should not be awarded reparations.

On jurisdiction, the Court dismissed the Respondent State's objection and holds that it has material jurisdiction to hear the Application under Article 3(1) of the Protocol, which gives the Court powers to examine any Application submitted to it, provided that the rights of which a violation is alleged are protected by the Charter or any other human rights instrument ratified by the Respondent State. The Court further stated that although it does not exercise appellate jurisdiction with respect to claims already examined by national courts, it retains the power to assess the propriety of domestic proceedings as against standards set out in international human rights instruments ratified by the State concerned.

Although there were no objections raised with respect to the Court's personal, temporal, and territorial jurisdiction, in line with Rule 46(1) of the Rules, the Court nevertheless examined all the other aspects of its jurisdiction and found that it had jurisdiction to hear the Application.

In terms of the admissibility of the Application, the Court considered the objection raised by the Respondent State, relating to non-exhaustion of local remedies within the meaning of Article 56(5) of the Charter. The Court noted that the Applicant pursued his case up to the Court of Appeal level, the highest judicial organ of the Respondent State, which rendered its judgment on 16 February 2016. In view of this, the Court held that the Applicant had exhausted local remedies.

The Court was also satisfied that the record showed that all other conditions of admissibility as set out in Article 56 of the Charter and restated in Rule 50(2) of the Rules of Court had

been complied with.

Having found the Application admissible, the Court considered whether the Respondent State violated the Applicant's rights by examining the allegations raised by the Applicant.

Firstly, the Applicant alleges that he was not informed of the grounds of arrest before being arrested which amounted to a violation of his fundamental rights under section 23 of the Criminal Procedure Act Cap 20 RE 2002 supported by Article 15(2) of the Constitution of the United Republic of Tanzania, 1977. The Respondent refuted the allegation and submitted that if the Applicant felt his rights had been violated, he had the remedy of instituting a constitutional petition under the Basic Rights and Duties Enforcement Act [Cap 3 RE 2002] while the proceedings were ongoing before the District Court.

The Court noted that as it emerges from the judgment of the District Court in proceedings against the Applicant, in his sworn testimony, the Applicant confirmed that, at the time of arrest, the police informed him that there was an allegation of stealing and rape against him. The Court therefore dismissed the Applicant's allegation and found that the Respondent State did not violate Article 7(1)(c) of the Charter.

Secondly, the Applicant alleges that the judgment of the Court of Appeal violated Articles 2, 3 and 7(1) of the Charter as it did not properly determine matters of law and fact. The Respondent State disputes this allegation as vague and unspecific and contends that the Court of Appeal duly assessed all matters of law and facts and found no merit to the Applicant's grounds of appeal, which it dismissed. On these considerations, the Court dismissed the Applicant's allegation on this point.

On the Applicant's allegation that he was convicted on fabricated evidence as he was not properly identified by PW1 at the scene of the crime, the Court noted from the record that the prosecution relied on four (4) witnesses to prove its case. The Court held that the domestic courts assessed the circumstances in which the crime was committed, to eliminate possible mistaken identity and they found that the Applicant was positively identified as having committed the crime. The Court dismissed the Applicant's allegations and found that the Respondent State did not violate Articles 2, 3 and 7(1) of the Charter.

In respect of the Applicant's allegation that the domestic courts relied upon fabricated, contradictory, inadequate and devoid prosecution evidence to uphold his conviction, the Court noted that the evidence in the Applicant's trial was evaluated in conformity with the

requirements of fair trial. The Court found that the procedures followed by the national courts in dealing with the Applicant's appeals did not violate Article 7(1) of the Charter. Further, the Court noted that the Applicant did not provide evidence that any other law or statute applied in the proceedings involving him runs counter to the right to non-discrimination, equality before the law and equal protection of the law in violation of Articles 2 and 3 of the Charter. The Court, therefore, dismissed the Applicant's allegation and found that the Respondent State did not violate Articles 2, 3 and 7(1) of the Charter.

Thirdly, the Applicant alleges that the justice of appeal erred in law and facts by failing to observe that the defence witnesses were not summoned in contravention of Section 231 of the Criminal Procedure Act, Cap 20 RE 2002 and Article 13(6)(a) of the Constitution of the United Republic of Tanzania, 1977. The Respondent State disputes this allegation and submits that the same argument was dismissed by the Court of Appeal as the appellant was recorded as saying that he would give his testimony under oath and that he had neither a witness to call or an exhibit to tender.

The Court noted that there is nothing to show from the record that the Applicant made any request for the summoning of defence witnesses and the courts refused to grant it. The Court noted that on the contrary, despite indicating that his wife could verify his alibi, the Applicant never showed any intention to have her in court as a witness. In view of the above, the Court dismissed the Applicant's allegation and found that the Respondent did not violate Article 7(1)(c) of the Charter.

In the instant case, since no violation was established, the Court dismissed the Applicants' prayer for reparation.

Regarding costs, the Court ordered that each party should bear its own costs.

Further Information

Further information about this case, including the full text of the decision of the African Court, may be found on the website at: <https://www.african-court.org/cpmt/details-case/0372016>

For any other queries, please contact the Registry by email registrar@african-court.org.

The African Court on Human and Peoples' Rights is a continental court established by African Union Member States to ensure the protection of human and peoples' rights in Africa. The

Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at www.african-court.org .