


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

APPLICATION NO. 045/2020

BASHIRU RASHID OMAR

V.

UNITED REPUBLIC OF TANZANIA

CASE SUMMARY

I. THE PARTIES

1. The Application is filed by Mr. Bashiru Rashid Omar (hereinafter referred to as “the Applicant”), a Tanzanian national who is incarcerated at the Zanzibar prison for the offence of murder, following his conviction and sentence.
2. The Respondent State is the United Republic of Tanzania (hereinafter referred to as “the Respondent State”).

II. SUBJECT OF THE APPLICATION

A. FACTS OF THE MATTER

3. On 28 September 2016, the High Court of Tanzania in Zanzibar, convicted the Applicant of murder of his son and imposed a mandatory death sentence pursuant to Section 181 of the Penal Decree Cap. 13 of the Laws of Zanzibar.
4. The Applicant asserts that he suffers from a medical condition which manifests as debilitating stress-induced headaches, which contributed to his diminished mental capacity at the time of the offense. That the court did not consider this as a mitigating factor or state of mind to prefer an individualized sentencing.
5. The Applicant avers that on 29 August 2003, while experiencing emotional distress due to the fact that he was being denied access to his son, he lost control and killed the child. Furthermore, that despite his mental condition playing a significant role in his actions, neither the High Court nor his legal representative adequately investigated or presented evidence regarding his mental state or disability.
6. Following his conviction, the Applicant appealed to the Court of Appeal of Tanzania on 13 December 2018. However, the appellate court upheld both the conviction and sentence without ordering a medical examination to assess his mental status.

7. The Applicant then filed his Application before this Court on 20 November 2020.

B. ALLEGED VIOLATIONS

8. The Applicant alleges that the Respondent State violated his rights as follows:

- i. The Right to life (Article 4 of the Charter)
- ii. Right to dignity (Article 5 of the Charter)
- iii. Right to a fair trial (Article 7 of the Charter)

III. PRAYERS OF THE APPLICANT

9. The Applicants pray the Court to:

- I. Appoint a legal representative to assist in the proceedings before the Court.
- II. Declare that the mandatory death sentence imposed on him is in violation of the African Charter on Human and Peoples' Rights.
- III. Order the Respondent State not to execute the death sentence imposed on him pending the final determination of this matter by the Court.
- IV. Order the Respondent State to repeal all legal provisions mandating the imposition of the death penalty without consideration of mitigating circumstances.
- V. Order the Respondent State to conduct a new sentencing hearing in compliance with *Ally Rajabu and Others v. United Republic of Tanzania*, App. No. 007/2015, ensuring that mitigating evidence is considered and an individualized sentencing is made.
- VI. Order the Respondent State to provide appropriate reparations for the violations of his rights under the Charter.
- VII. Grant him any other remedy that the Court deems just and appropriate in the circumstances.