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**AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS  
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES**

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**CASE SUMMARY**

**APPLICATION NO 020 OF 2015**

**DAUDI LIVINUS MAYUKA.....APPLICANT**

**V**

**UNITED REPUBLIC OF TANZANIA.....RESPONDENT**

**Summary of facts**

1. The Applicant alleges that he was charged, convicted and sentenced to 20 years imprisonment by the District Court of Mbinga, in Tanzania.
2. The Applicant decided to appeal to the High Court of Tanzania at Songea but the appeal was dismissed. Further to that, the High Court substituted the sentence of 20 years to 30 years imprisonment and 12 strokes of the cane.
3. Again the Applicant appealed to the Court of Appeal of Tanzania but his appeal was dismissed.
4. The Applicant alleges that the National Courts erred in law by relying on visual identification which was unreliable.
5. He further alleges that the sentence imposed to him was unconstitutional in terms of Article 13 (6) (c) of the Tanzanian Constitution and that the sentence is not in

line with African Charter on Human and Peoples' Rights (Charter). He maintains that the sentence of 30 years was not effective when the alleged robbery was committed on 27 October, 1999 because the sentence of 30 years came into force in 2004 under Government Notice No. 269 of 2004.

### **Jurisdiction**

6. The Applicant alleges that the jurisdiction of the Court regarding his application is based on Articles 3 of the Protocol and Rule 26 of the Court Rules.

### **Admissibility**

7. The Applicant requests the Court to accept his application pursuant to the provisions of Article 56 of the Charter, Article 6(2) of the Protocol and Rule 40 of the Rules of Court.
8. The Applicant maintains that local remedies have been exhausted since his appeal was dismissed by the Court of Appeal of Tanzania.

### **Applicant's prayers**

9. The Applicant prays for:
  - (i) A declaration that the Respondent violated his rights under Articles 1, 2, 3, 4,5 and 7 (c ) and 2 of the Charter.
  - (ii) Compelling the Respondent to release him from prison
  - (iii) Order for reparations
  - (iv) This Court to supervise implementation of Court's order if the decision will be in his favor

### **Respondent's pleadings**

10. The Respondent raises a preliminary objection regarding the Court's jurisdiction. The Respondent contends that the Jurisdiction of the Court has not been invoked.

11. In the alternative, the Respondent is challenging the admissibility of the Application before the Court as it does not satisfy the conditions for admissibility pursuant to Rules 40(5) and 40(6) of the Rules of the Court. The Respondent contends that there was no exhaustion of local remedies and the Application was filed out of time.

12. On merits the Respondent submits that;

- I. The Respondent strongly refutes the allegations that it has not adopted legislative measures to give effect to the rights provided for in the Charter.
- II. The allegations that the Applicant was discriminated are vague and baseless.
- III. The allegations that the Applicant's right to life and integrity of his person were violated are frivolous.
- IV. At no time during the Applicants trial or during his appeal was denied the right to have his case heard.

### **Respondent's prayers**

13. The Respondent prays the Court to give/grant the following orders;

14. On Jurisdiction

- i. The Application should be dismissed because the Court has no jurisdiction to entertain this matter.

15. On admissibility

- i. The Application should be declared admissible for failure to meet the conditions of Rule 40(5) on exhaustion of local remedies and Rule 40(6) that the Application was filed out of time.

16. With respect to the Merits of the Application, the prayers are;

- I. The Application be dismissed for lack of merit.
- II. The Applicant not to be released from prison and
- III. The Applicant's prayer for reparations be dismissed

17. The reason is, the Government of the United Republic of Tanzania has not violated Articles 1, 2, 3, 4, 5, 7( c) and 7(2) of the African Charter on Human and Peoples' Rights.