

IN THE AFRICAN HUMAN AND PEOPLE'S RIGHTS

AT ARUSHA

APPLICATION NO. 051 OF 2016

BETWEEN

NZIGIYIMANA ZABRONAPPLICANT

AND

THE REPUBLIC OF TANZANIARESPONDENT

O/F COURT OF APPEAL OF TANZANIA AT TABORA

IN CRIMINAL APPEAL NO 182 OF 2013

FROM HIGH COURT OF TANZANIA AT TABORA

IN CRIMINAL SESSION NO 20 OF 2008

EXECUTIVE SUMMARY OF THE APPLICATION

MADE UNDER RULE 19 OF THE COURT FROM PROVISION NO 17 OF
THE COURT PRACTICE DIRECTIONS

The applicant present this executive summary under following grounds

1. **THAT:** I am a prisoner condemning at Butimba central prison in Mwanza city Tanzania who had been convicted for offence of murder contrary to section 196 of the Tanzania penal code cap 16 of the revised edition 2002 and sentenced by the high court to death penalty on the 25 June 2012.
2. **THAT:** I am dissatisfied by the high court decision thus I apprealed in the above mentioned appeal which had dismisses by court of appeal in its entirety on the 25 September 2013 hence this application in the honorable court as the court of appeal judgment has manifest errors while the applicant was convicted by unstandard evidence and isolated by procedure of the court which contrary to the fundamental rights of human and people. These acts are miscarrying justice. A copy of the court of appeal judgment attached here in as annexture with request to the court of gaining a copy of the proceeding (record) from the respondent.
3. **THAT:** the alleged evidence of doctrine of recent possession against the applicant had not proved as the bicycle which has claimed property of the deceased and being recovered from the applicant after the incident had left some main inquiries. The prosecution witnesses didn't manage to describe the said bicycle to the police

before it was shown to them. Also the sell agreement was wrongly admitted while had needed to be reduced by its makers in its origin

4. **THAT:** the court had failed to question on account that the bicycle was found by the applicant at easily manner if it was owned by the deceased. The applicant had been clearly explained that he was the owner of the bicycle as bought it in the presence of witnesses including the street chairman. The trial court (high court) didn't give the applicant opportunity to call the witnesses to support his claim according to the ownership of the bicycle.
5. **THAT:** the court isolated the applicant by not giving him interpreter as he was not known the language of the court while the hearing was conducting. Thus, this procedure made unfair hearing against the applicant.
6. **THAT:** the court were highly overlooked to observe contradiction and inconsistencies in the evidence of prosecution witness regarding the injuries of the applicant. The court were required to disregard the evidence of these witnesses on this point
7. **THAT:** under above noted circumstances the applicant was not heard. Thus the decision of the court is irregular and miscarriage of justice.
8. **THAT:** this honorable court is prayed to restore the justice where it was overlooked.

VERIFICATION: The executive summary had been prepared by me, the applicant here at Butimba central Prison

(Rtp).....

THE APPLICANT

25/08/16



CERTIFICATION: Certified that the summary has been drawn by the applicant and signed by himself before me this day of 20.....

(Sgd)

**FOR O^{IC} BUTIMBA C. PRISON
MWANZA – TANZANIA**

INTV. MKUU WA DEFEZA
BUTIMBA C. PRISON

Lodged at Arusha in the court registry this Day of 2016

(Sgd)

**THE COURT REGISTRAR
(AFCHPR)**