

## **CASE SUMMARY**

### **APPLICATION 005/2013**

#### **ALEX THOMAS V THE UNITED REPUBLIC OF TANZANIA**

1. The Applicant states that he is a convict serving a 30 year custodial sentence at Karanga Central Prison at Moshi, Kilimanjaro Region, the United Republic of Tanzania following his conviction on 3 June 1998 by the District Court of Rombo at Mkuu of the offence of armed robbery/robbery with violence. He is Convict Number 355/2009. His application is against The Attorney General of the United Republic of Tanzania and the Chief Justice of the United Republic of Tanzania. It is assumed that the Two Respondents are being sued on behalf of the Government of Tanzania therefore the Respondent is the United Republic of Tanzania.
2. The Applicant brings the application on the basis of the following Criminal Cases (i) Criminal Case No. 321' 1996 In the District Court of Rombo at Mkuu (ii) Criminal Appeal No. 82'1998 In the High Court of Tanzania at Moshi (iii) Criminal Appeal No. 230' 2008 Court of Appeal of Tanzania at Arusha.
3. The Applicant alleges that there has been an undue delay in consideration of his request for the review of the decision of the Court of Appeal of 29 May 2009 to uphold his conviction. He states that he applied to the Court for the review of the decision on 5 June 2009.
4. He also stated the Trial and Appellate Courts erred in law by convicting him due to the following reasons:
  - i. That in accordance with Section 181 and 387 of the 1985 Criminal Procedure Act of Tanzania (CPA) the Tanzanian courts lacked jurisdiction to try him as the alleged robbery occurred in Kenya
  - ii. That the prosecution did not prove the case against him beyond reasonable doubt as there were variances between the charge sheet and the prosecution's evidence, particularly its witnesses' testimony during the hearing, regarding the ownership and actual property alleged to have stolen and also its value and whether or not the applicant attacked the complainants with a gun. That the charges against him were therefore defective, as provided by Section 132 of the CPA.
  - iii. That he was not provided with an Advocate to defend him, as required by Article 13 of the Constitution of the United Republic of Tanzania as he

had been charged with the capital offence of armed robbery/robbery with violence thus he did not have the opportunity to defend himself and the principle of equality of arms was contravened. In addition, the Applicant alleges that he was also not given the opportunity to make a rejoinder to the prosecution's statement during the hearing of his appeal. He alleges that he was denied the right to be heard contrary to Section 226(2) of the CPA and the Universal Declaration of Human Rights

5. The Applicant asks that the Court makes any orders and reliefs that it may deem fit to grant.
6. The Applicant requests that the Court quashes the decisions by the trial court and the appellate courts convicting him of the offences he was charged with, acquits him and sets him free.