

RWANDA / JUDGMENT

UBUSHINJACYAHA vs UWIZEYIMNA

RPAA01025/2024/CA

COURT

Court of Appeal

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UBUSHINJACYAHA vs UWIZEYIMNA

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Text

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UBUSHINJACYAHA vs UWIZEYIMANA [Rwanda URUKIKO RW'UBUJURIRE – RPAA01025/2024/CA (Kanyange, P.J.) 23 Gicurasi 2025] Amategeko yerekeye imiburanishije y'imanza nshinjabyaha – ibimenyetso mu manza – kwemera icyaha – kemera icyaha mu nzego z'iperereza – umucamanza uburanisha urubanza mu mizi ari we ureba agaciro imvugo yiyemerera icyaha mu rwego rw'iperereza ifite, kabone n'yo nyirayo yageze imbere y'Urukiko akayihindura. Amategeko yerekeye imiburanishije y'imanza nshinjabyaha – ibimenyetso mu manza – ikimenyetso nkoranabuhanga cya DNA – ku cyaha cyo gusambanya umwana, icyo DNA iba igamije ni ukugaragaza amasano uregwa afitanye n'umwana wabyawe n'umukobwa aregwa ko yasambanyije, kuba byagaragara ko uwo mwana nta sano bafitanye ntibivuguruza ibimenyetso bigaragaza ko yasambanyije uwo mukobwa kabone n'ubwo atari we wamuteye inda. Amategeko mpanabyaha – ubujurire – ibihano – Urukiko rushobora gusuzuma ibirebana n'igihano uregwa yahawe n'ubwo ubujurire bwe nta shingiro bufite. Incamake y'ikibazo: Uru rubanza rwatangiye, ubushinjacyaha burega Uwizeyimana mu rukiko Rwisumbuye rwa Ngoma icyaha cyo gusambanya umwana witwa U.D w'imyaka cumi n'itanu (15), busaba Urukiko ko rumuhamya icyaha, rumusabira igihano cy'igifungo cya burundu. Uwizeyimana yaburanye ahakana icyaha

akurikiranweho, avuga ko hapimwe ikizamini cya DNA kigaragaza ko umwana wabyawe na U.D atari uwe. Urukiko mu rubanza RP00014/2020/TGI/NGOMA, rushingiye ku mvugo z'abatangabuhamya, no ku kwemera icyaha k'uregwa mu bushinjacyaha, rwemeza ko ahamwa n'icyaha cyo gusambanya umwana U.D ufite imyaka 12, rumukatira igihano cy'igifungo cya burundu. Uwizeyimana yajuriye mu Rukiko Rukuru, Urugereko rwa Rwamagana avuga ko hari urujijo ku myaka ya U.D kandi ko Urukiko rwirengagije ikizamini cya DNA cyagaragaje ko atari we se w'umwana U.D yabyaye kandi yaravuze ko ari we wenyine wamusambanyije akamutera inda, avuga ko nta n'umutangabuhamya wemeje ko yasambanyije uwo mukobwa. Ubushinjacya byasubije ko umwana Uwizeyimana aregwa gusambanya yari afite imyaka cumi n'itanu (15), ko kandi kuba DNA yaragaragaje ko umwana wavutse atari uwe bidakuraho ko yasambanyije U.D kuko adakurikiranweho icyaha cyo kumutera inda, buvuga kandi ko Uwizeyimana abazwa mu Bugenzacyaha no mu Bushinjacyaha yemeye ko yasambanyije uwo mwana. Urukiko mu rubanza RPA00677/2021/HC/RWG, rushingiye ku kuba Uwizeyimana yaremeye ko yasambanyije U.D mu bugenzacyaha no mu bushinjacyaha, nubwo yihakanye ko atamuteye inda kandi n'ikizamini cya DNA cyikaba kitagaragaza ko ariwe se w'umwana wabyawe na U.D, rwemeje ko ubujurire bwe nta shingiro bufite, icyakora rumugabanyiriza igihano kuko U.D yararengeje imyaka 14, rumuhanisha igihano cy'igifungo cy'imyaka makumyabiri (20). Uwizeyimana yatanze ubujurire bwa kabiri mu Rukiko rw'Ubujurire, avuga ko Urukiko Rukuru rwamuhamije icyaha cyo gusambanya umwana rushingiye ko yacyemeye kandi yarasobanuye ko byatewe n'ihohoterwa yakorewe, runirengagiza ikimenyetso cya DNA kimushinjura, runirengagiza kandi urubanza rusa n'urwe ndetse n'amategako arengera uregwa mu gihe hari ugushidikanya ku bimenyetso bimuhamya icyaha. Ubushinjacyaha buvuga ko impamvu z'ubujurire nta shingiro zifite, kuko izo mpamvu yaziburanishije mu manza zabanje inkiko zizitangaho ubisobanuro, akaba atagaragaza icyo anenga ibyo bisobanuro, buvuga kandi ko kuba umucamanza atarashingiye ku rubanza avuga atari ikosa kuko hari ibindi bimenyetso yashingiyeho byemeza ko ari we wasambanyije U.D.

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Urukiko mu rubanza RPAA01025/2024/CA, rwemeje ko ubujurire bwe nta shingiro bufite kuko atavuguruzwa ibimenyetso byashingiweho n'Urukiko mu rubanza ajuririra icyakora remeza ko yongera kugabanyirizwa ibihano kuko hari izindi mpamvu nyoroshyacyaha, rumuhanisha igihano cy'igifungo cy'imyaka cumi n'ine. Incamake y'icyemezo: 1. umucamanza uburanisha urubanza mu mizi ari we ureba agaciro imvugo yiyemerera icyaha mu rwego rw'iperereza ifite, kabone n'iyi nyirayo yageze imbere y'Urukiko akayihindura. 2. ku cyaha cyo gusambanya umwana, icyo DNA iba igamije ni ukugaragaza amasano uregwa afitanye n'umwana wabyawe n'umukobwa aregwa ko yasambanyije, kuba byagaragara ko uwo mwana nta sano bafitanye ntibivuguruzwa ibimenyetso bigaragaza ko yasambanyije uwo mukobwa kabone n'ubwo atari we wamuteye inda. 3. Urukiko rushobora gusuzuma ibirebana n'igihano uregwa yahawe n'ubwo ubujurire bwe nta shingiro bufite. Bityo, hashingiwe ku guhuza uburemere bw'icyaha n'igihano, cyangwa ku gutanga ibihano bisa ku byaha bisa ndetse no ku mpamvu nyoroshyacyaha, Urukiko rwajuririwe rushobora kugabanya igihano nubwo ubujurire nta shingiro bufite. Ubujurire nta

shingiro bufite. Urubanza rujuririrwa ruhindutse gusa ku bijyanye n'igihano. Amategeko yashingiweho: Itegeko N°68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 133 al. 3,10 Imanza zifashishijwe: Urubanza RPA0010/ 06/CS - RPA 0011/06/CS - RPA 0012/06/CS, haburana Ubushinjacyaha na Sgt NTAGANIRA na bagenzi be rwaciwe n'Urukiko rw'Ikirenga ku wa 18/07/2008, Urubanza RPAA00535/2023/CA, haburana Ubushinjacyaha na Bikorimana Mista, rwaciwe n'Urukiko rw'Ubujurire ku wa 21/03/2025. Urubanza RPAA00299/2023/CA, haburana Ubushinjacyaha na Hagenimana Erimereki, rwaciwe n'Urukiko rw'ubujurire ku wa 29/04/2024. Urubanza RPAA00278/2024/CA haburana Ubushinjacyaha na Turikumwe Marc rwaciwe n'Urukiko rw'Ubujurire ku wa 21/02/2025 Urubanza RPAA00039/2021/CA haburana Ubushinjacyaha na Shakabatenda Jean de Dieu rwaciwe n'Urukiko rw'Ubujurire 02/07/2021, Urubanza RPAA00398/2021/CA, haburana Ubushinjacyaha na Niyomugabo Mose rwaciwe n'Urukiko rw'Ubujurire ku wa 21/03/2025 Urubanza. I. IMITERERE Y'URUBANZA [1] Uwizeyimana Jean Claude yaketsweho gusambanya umwana w'imyaka cumi n'itanu (15) wiswe U.D mu manza zabanje¹, bimenyekana biturutse ku makuru yatanzwe n'umuyobozi w'Ikigo nderabuzina cya Rubona wavuze ko U.D yahabyariye kandi ko bikekwa ko yasambanyijwe na Uwizeyimana Jean Claude, bituma atangira gukorwaho iperereza kuri icyo cyaha n'inzego zibishinzwe.

1 Kubera ko ari umwana

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[2] Nyuma y'iperereza, Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Ngoma bumukurikiranyeho icyaha cyo gusambanya umwana, bushingiye ku bimenyetso birimo imvugo za U.D n'imvugo za Uwizeyimana Jean Claude wemeye ko bakoranye imibonano mpuzabitsina idakingiye, bumusabira igifungo cya burundu. [3] Mu kwiregura, Uwizeyimana Jean Claude yahakanye icyaha akurikiranweho, avuga ko yafashwe ku wa 17/12/2019 naho ku wa 20/12/2019 bajya kumupimisha, ikizamini cya DNA kigaragaza ko umwana wabyawe na U.D atari uwe, ko rero yarenganurwa kuko atigeze amusambanya. [4] Urukiko rwaciye urubanza RP00014/2020/TGI/NGOMA ku wa 12/05/2021, rusanga n'ubwo Uwizeyimana ahakana icyaha, hari ibimenyetso bihamya ko yagikoze bigizwe n'imvugo ya U.D wasobanuye mu buryo bwimbitse uko yamusambanyije kandi na Uwizeyima Jean Claude abazwa igihe cy'iperereza akaba yaremeye ko yamusambanyije, ko kuba ikizamini cya DNA cyaragaragaje ko umwana wavutse atari uwe bidakuraho ibyo yemeye mu Bugenzacyaha no mu Bushinjacyaha ko yamusambanyije ari indaya bahuriye mu kabari akamuha amafaranga igihumbi (1000Frw), naho iby'uko yemeye icyaha kubera inkoni akaba ari amatakirangoyi. Rwasanze rero ibyo bimenyetso bihagije ngo ahamwe n'icyaha akurikiranweho, rumuhanisha igihano cy'igifungo cya burundu kubera gusambanya umwana w'imyaka cumi nibiri (12). [5] Uwizeyimana Jean Claude yajuriye mu Rukiko Rukuru, Urugereko rwa Rwamagana avuga ko hari urujijo ku myaka y'umukobwa aregwa gusambanya kuko hamwe bavuga ko yari afite imyaka 12 ahandi bakavuga 15, ko kandi Urukiko rwirengagije ikizamini cya DNA cyagaragaje ko atari we se w'umwana U.D yabyaye kandi yaravuze ko ari we wenyine wamusambanyije akamutera inda, hakaba nta

n'umutangabuhamyanya wemeje ko yasambanyije uwo mukobwa. [6] Uhagarariye Ubushinjacya yasubije ko umwana Uwizeyimana aregwa gusanya atari afite imyaka cumi n'ibiri (12) ahubwo yari afite imyaka cumi n'itanu (15), ko kandi kuba DNA yaragaragaje ko umwana wavutse atari uwe bidakuraho ko yasambanyije U.D kuko adakurikiranweho icyaha cyo kumutera inda, kandi abazwa mu Bugenzacyaha no mu Bushinjacyaha akaba yaremeye ko yasambanyije uwo mwana. [7] Urukiko rwacye urubanza RPA00677/2021/HC/RWG ku wa 27/09/2024, rusanga ibyo Uwizeyimana avuga nta shingiro bifite, kuko abazwa mu Bugenzacyaha yahakanye ko atari we wateye inda U.D ariko yemera ko yamusambanyije mu kwezi kwa mbere 2019, no mu Bushinjacyaha yemera ko yamusambanyije kuko yicuruzaga akaba yaramuhaye 1000Frw, ko kuba yarageze mu Rukiko agahakana icyaha yitwaje ko igisubizo cya DNA cyagaragaje ko atari we se w'umwana wavutse nta gaciro byahabwa, kuko atarezwe gutera inda uwo mwana ahubwo yarezwe kumusambanya, ko kuba hari n'undi wamusambanyije akamutera inda bitamuhaguraho icyaha mu gihe hari ibimenyetse byemeza ko yamusambanyije. [8] Rwasanze kandi ibyo Uwizeyimana Jean Claude aburanisha by'uko yemeye icyaha mu Bugenzacyaha no mu Bushinjacyaha kubera gukubitwa n'abashinzwe umutekano bitafatwa nk'ukuri kuko nta cyemeza ko yakubiswe, kandi ko uretse ibyo yemeye anashinjwa na U.D, akaba atagaragaza impamvu ari we yavuze, ko rero nubwo yahisemo guhakana ibyo yari yemeye ntacyo byamumarira hashingiwe no ku murongo watanze n'Urukiko rw'Ikirenga uvuga ko kwemera icyaha mu iperereza ukagihakana mu iburanisha ubwabyo bidatesha agaciro uko kwemera, ko ahubwo umucamanza ari we uha agaciro imvugo y'uwiyemereye icyaha mu iperereza kabone nubwo yagera mu rukiko akayihakana [9] Rwasanze ariko Urukiko Rwisumbuye rwarafashe ibintu uko bitari aho rwamuhannye nk'uwambanyije umwana uri muni y'imyaka 14 kandi uwo yasambanyije yari afite imyaka cumi n'ine

- (14) n'ukwezi kumwe, akaba agomba guhanwa hashingiwe ku ngingo ya 133 al. 3,10 y'itegeko N°68/2018

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ryo ku wa 30/8/2018 riteganyaga ibyaha n'ibihano muri rusange, rubishingiraho rumuhanisha igihano cy'igifungo cy'imyaka makumyabiri (20). [10] Uwizeyimana Jean Claude yatanze ubujurire bwa kabiri mu Rukiko rw'Ubujurire, urubanza rwandikwa kuri RPAA01025/2024/CA, ruhabwa itariki yo kuburanishwa yo ku wa 08/05/2025, uwo muni ruburanishwa yunganiwe na Me Musasangohe Illuminée, Ubushinjacyaha buhagarariye na Habimana Jean Cabin, Umushinjacyaha ku rwego rw'Igihugu. [11] Mu myanzuro y'ubujurire no mu miburanire, Uwizeyimana Jean Claude n'umwunganira bavugaga ko Urukiko Rukuru rwamuhamije icyaha cyo gusambanya umwana rushingiye ko yacyemeye kandi yarasobanuye ko byatewe n'ihohoterwa yakorewe, runirengagiza ikimenyetso cya DNA kimushinjura, runirengagiza urubanza rusa n'urwe ndetse n'ingingo ya 111 y'Itegeko N°027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ivugaga ko gushidikanya birengera uregwa. [12] Uhagarariye Ubushinjacyaha avugaga ko izo mpamvu nta shingiro zifite, kuko ikibazo cy'uko yemeye icyaha kubera gukubitwa ndetse n'icy'uko ikizamini cya DNA kimushinjura,

yabiburanishije ku rwego rwa mbere kandi Urukiko rubitangaho ibisobanuro, akaba atagaragaza icyo anenga ibyo bisobanuro, naho kuba umucamanza atarashingiye ku rubanza Uwizeyimana avuga akaba atari ikosa kuko hari ibindi bimenyetso yashingiyeho byemeza ko ari we wasambanyije U.D. [13] Impaka ziri mu rubanza zishingiye ku kumenya niba kwemera icyaha Uwizeyimana Jean Claude yakoreye mu nzego z'iperereza kutaragombaga gushingirwaho nk'ikimenyetso kimushinja, no kumenya niba Urukiko rwarirengagije ibimenyetso bimushinjura. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Kumenya niba Urukiko rwarirengagije ko kwemera icyaha Uwizeyimana yakoreye mu nzego z'iperereza kwatewe n'ihohoterwa yakorewe, rukanirengagiza ibimenyetso bimushinjura [14] Uwizeyimana Jean Claude n'umwunganira bavuga ko mu kumuhamba icyaha, Urukiko rwashingiye ku kuba yaracyemeye mu nzego z'iperereza, rwirengagije ko yemejwe icyaha atakoze, mu Bugenzacyaha abikora agira ngo yirengere kubera gukubitwa n'inzego z'umutekano, ageze kuri station nabwo abwirwa ko nagera mu Bushinjacyaha agahakana azakubitwa, bituma naho yemera icyaha n'ubwo ho atakubiswe, ko ubwo yari ageze mu Rukiko yisanzuye yagaragaje ukuri asobanura ko atasambanyije U.D ariko ntibyahabwa agaciro, ruvuga ko ukwemera kwe gushimangirwa n'imvugo za U.D kandi izo mvugo zishidikanywaho, bitewe n'uko yavuze ko yamuteye inda ku wa 30/02/2019 kandi iyo tariki itabaho, naho kuba Uwizeyimana yaravuze ko yamusambanyije mu kwezi kwa mbere akaba ari ibyo yapfuye kuvuga yizeye ko ukuri kuzagaragazwa na DNA. [15] Bavuga kandi ko Urukiko rwamuhamije icyaha rwirengagije ikimenyetso cya DNA, kuko U.D yamureze avuga ko ikigaragaza ko yamusambanyije ari uko yamuteye inda n'umwana wavutse amwita Uwizeyimana, nyamara iyo DNA ikaba yaragaragaje ko umwana atari uwe, ko rero niba kwemera kwe n'imvugo za U.D byari bihagije, hakwibazwa impamvu hakoze ikizamini cya DNA, ko basanga kwari ukugira ngo hagaragare ikimenyetso kimara impaka, ko rero icyo kimenyeto cyagombaga kumurenganura, cyane cyane ko no kugira ngo afatwe byaturutse ku makuru yatanze n'Ikigo nderabuzima aho uwo mukobwa yabyariye, bivuze ko yakurikiranwe kubera uwo mwana wavutse, ko rero Urukiko rutari kuvuga ko atarezwe gutera inda mu gihe ikimenyetso cyatumye akurikiranwa ari ukuba yarateye inda U.D., ko Urukiko rutari no gushingira ku kuba U.D nta wundi muntu yavuze ko yamusambanyije utari Uwizeyimana mu gihe byagaragaye ko umwana yabyaye atari uwe. Basanga rero haragombaga kugaragazwa ibindi bimenyetso bishimangira ukwemera yakoreye mu nzego z'iperereza.

2 Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari muni y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25).

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[16] Bavuga ko ahubwo Urukiko rwari gushingira ku rundi rubanza rusa n'urwe3, aho Nkurikiyimana Samuel yahamijwe icyaha cyo gusambanya umwana ngo kuko yacyemeye mu Bugenzacyaha, mu bujurire Urukiko rusanga yarashinjwe n'umwana ko yamuteye inda ariko DNA igaragaza ko atari we, ko nta kindi kimenyetso gishimangira imvugo z'uwo mwana Ubushinjacyaha bwatanze, ko kandi kuba yaremeye icyaha mu Bugenzacyaha akagihakana mu zindi nzego, nta kindi kimenyetso cyemeza ko ari we wamusambanyije gitandukanye n'ibyo Ubushinjacyaha bwamureze buvuga ko yamuteye inda, rumugira umwere kuko nta

kimenyetso kimara impaka cyemeza ko yamusambanyije, ko rero nawe yahabwa ubutabera nk'ubwahawe Nkurikiyimana kuko nawe yarezwe gusambanya U.D no kumutera inda kandi DNA yaragaragaje ko atari we wayimuteye, hakanashingirwa ku ngingo ya 111 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha ivuga ko gushidikanya birengera uregwa. [17] Uhagarariye Ubushinjacyaha avuga ko ibivugwa na Uwizeyimana Jean Claude n'umwunganira ko yemeye icyaha kubera gukubitwa atari byo kuko nta kimenyetso yigeze abigaragariza, ko rero nta kosa Urukiko rwakoze mu gushingira ku kwemera yakoreye mu nzego z'iperereza, cyane cyane ko rwanabishingiye ku murongo rwagaragaje watanze n'Urukiko rw'Ikirenga. Avuga kandi ko Uwizeyimana yemeye bwa mbere mu Bugenzacyaha, akaba ataragaragaje ko yahakubitiwe, ageze mu Bushinjacyaha naho yemera icyaha kandi avuga ko ho atakubiswe, ko kandi umuntu wakubiswe ashobora kugira igikomere cyangwa ikindi kigaragaza ko yahohotewe, ko rero nta nenge agaragaza nk'uko biteganywa n'ingingo ya 183 y'Itegeko N° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ivuga ko ujurira agomba kugaragaza inenge ziri mu rubanza ajuririra. [18] Avuga kandi ko ikimenyetso cya DNA nacyo cyafashweho icyemezo, Urukiko rukaba rwarasobanuye ko kuba yaragaragaje ko nta sano Uwizeyimana afitanye n'umwana U.D yabyaye bitavanaho ko yamusambanyije nk'uko yabyemeye, kandi icyo yarezwe akaba atari ukumutera inda ahubwo ari ukumusambanya, ko kandi kuba U.D yaravuze uwamusambanyije bihura n'ibyo Uwizeyimana Jean Claude yemeye, naho kuba uwo mwana yaravuze ko yasambanyijwe ku wa 30/02/2019, akaba ari ukwibeshya ku matariki ariko ko bidahindura ibirebana n'imizi y'ikibazo. [19] Ku birebana n'urubanza Uwizeyimana avuga ko rwagombaga gushingirwaho kuko rusa n'urwe, uhagarariye Ubushinjacyaha avuga ko ibyo nabyo nta shingiro bifite, kuko Urukiko ari rwo rufite ububasha bwo kwemeza ko ibimenyetso bikwiye kwemerwa kandi rukabiha ishingiro rikwiye, ko rero kuba umucamanza atarashingiye kuri urwo rubanza nta kosa yakoze kuko hari ibindi bimenyetso yashingiyeho byemeza ko ari we wasambanyije U.D, ko ndetse izo manza zidasira kuko Uwizeyimana yemeye icyaha mu Bugenzacyaha no mu Bushinjacyaha mu gihe mu rubanza avuga, uwaregwa yemeye icyaha mu Bugenzacyaha gusa. KO URUKIKO RUBIBONA [20] Impaka kuri iyi ngingo zishingiye ku kumenya agaciro kahabwa ukwemera icyaha Uwizeyimana Jean Claude yakoreye mu Bugenzacyaha no mu Bushinjacyaha, mu gihe yageze imbere y'Inkiko aburana mu mizi y'urubanza akagihakana no kumenye niba Urukiko rwariyangagije ikimenyetso cya DNA ndetse n'urubanza rusa n'urwe. [21] Ikibazo kirebana n'agaciro gahabwa imvugo z'uregwa wemeye icyaha mu nzego z'iperereza yagera imbere y'Urukiko akagihakana, Urukiko rw'Ikirenga rwagitanzeho umurongo mu rubanza RPA0010/06/CS - RPA0011/06/CS - RPA0012/06/CS, rwaciye ku wa 18/07/2008, haburana Ubushinjacyaha na Sgt Ntaganira na bagenzi be4. Muri urwo rubanza Urukiko rw'Ikirenga rwasobanuye ko umucamanza uburanisha urubanza mu mizi ari we ureba agaciro imvugo yiyemerera icyaha mu rwego rw'iperereza ifite, kabone n'iyi nyirayo yageze imbere y'Urukiko akayihindura. Uyu murongo kandi wagendeweho no mu zindi manza zaciye n'uru Rukiko, uruherutse akaba ari urubanza Urubanza

3 Urubanza noRPA 00477/2019/HC/RWG rwaciwe ku wa 10/03/2022, haburana Ubushinjacyaha na Nkurikiyimana Samuel. 4 Reba igika cya 46 cy'urwo rubanza

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RPAA00535/2023/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 21/03/2025 Ubushinjacyaha buburana na Bikorimana Mista5. [22] Nk'uko imikirize y'urubanza rwajuririwe ibigaragaza, ikibazo cy'uko Uwizeyimana yemeye icyaha mu nzego z'iperereza bitewe no gukubitwa, yakiburanishije mu Rukiko Rukuru ariko urwo Rukiko rusanga nta shingiro gifite kubera nta cyemeza ko yakubiswe ko kandi uretse ibyo yemeye anashinjwa n'umukobwa yasambanyije, ko rero kuba yarageze mu Rukiko agahakana icyaha ntacyo byamumarira nk'uko byatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza rwavuzwe mu gika kibanziriza iki. [23] Nubwo mu kugarura icyo kibazo mu bujurire bwa kabiri, Uwizeyimana atagaragaza icyo anenga impamvu Urukiko Rukuru rwatanze runashingiye ku murongo watanzwe urebana n'umuburanyi wemeye icyaha mu nzego z'iperereza yagera mu Rukiko akagihakana, uru Rukiko narwo rurasanga iby'uko yemeye icyaha kubera gukubitwa, ntaho rwashingira rubyemeza bitewe n'uko nta kibigaragaza, cyane cyane ko aburana imbere y'uru Rukiko yemeye ko mu Bushinjacyaha atakubiswe kandi naho akaba yaremeye icyaha nk'uko yari yacyemeye mu Bugenzacyaha, anasobanura ko yasambanyije U.D kuko yicuruzaga ko kandi yamuhaye amafaranga igihumbi (1000Frw), bityo n'ibyo avuga ko kuri urwo rwego yemeye bitewe n'uko bari bamubwiye ko nahakana akubitwa, ari uburyo bwo guhunga ibyo yemeye muri izo nzego z'iperereza, kuko harebwe uburyo mu Bugenzacyaha yabisobanuye neza adategwa, yagera no mu Bushinjacyaha akongera kubisubiramo, bigaragaza ko yasobanuraga ibintu azi neza ko yakoze [24] Byongeye kandi nk'uko Urukiko Rukuru rwabisobanuye, usibye kuba Uwizeyimana yaremeye icyaha mu nzego zombi z'iperereza, anashinjwa n'umwana yasambanyije nk'uko bigaragara mu nyandikomvugo ye, n'ubwo yanavugaga ko ari we se w'umwana yabyaye, naho kuba yaravuze ko yasambanyijwe ku wa 30/02/2019 akaba ataribwo byatuma hemezwa ko imvugo ye ishidikanywaho kuko bigaragara ko ari ukwibeshya cyane cyane ko yabajijwe hashize igihe asambanyijwe ndetse atari anazi ko azabazwa ku buryo yari kwibuka itariki byabereyeho, bityo kuba ukwemera icyaha kwa Uwizeyimana kwarashingiweho mu kumuhamba icyaha, nta kosa Urukiko rwakoze cyane cyane ko ibyo rwemeje rwanabishingiye ku murongo watanzwe n'Urukiko rw'Ikirenga mu rubanza rwavuzwe haruguru. [25] Naho ku birebana n'uko ikizamini cya DNA cyagaragaje ko Uwizeyimana atari we se w'umwana U.D yabyaye, imikirize y'urubanza rwajuririwe igaragaza ko icyo kibazo nacyo cyari mu byo yajuririye mu bujurire bwa mbere, Urukiko Rukuru rusanga ariko atari ikimenyetso kimushinjura bitewe n'uko atarezwe gutera inda uwo mwana ahubwo yarezwe kumusambanya, ko kandi kuba hari n'undi wamusambanyije akamutera inda bitamuhaguraho icyaha mu gihe hari ibimenyetse byemeza ko yamusambanyije. [26] Uru Rukiko narwo rwemeranya n'ibisobanuro byatanzwe mu rubanza rujuririrwa, kuko kuba ikizamini cya DNA cyaragaragaje ko nta sano Uwizeyimana afitanye n'umwana wavutse, bitavanaho ibimenyetso byashingiweho byavuzwe haruguru bigaragaza ko yasambanyije U.D kabone n'ubwo atari we wamuteye inda nk'uko byanemejwe mu rubanza RPAA00299/2023/CA rwaciwe ku wa 29/04/2024 haburana Ubushinjacyaha na Hagenimana Erimeriki, aho Urukiko rw'Ubujurire rwasobanuye ko

icyo DNA iba igamije ari ukugaragaza amasano uregwa afitanye n'umwana wabyawe n'umukobwa aregwa ko yasambanyije, ko kuba byagaragara ko uwo mwana nta sano bafitanye atari byo bivuguruzwa ibimenyetso bigaragaza ko yasambanyije uwo mukobwa kabone n'ubwo atari we wamuteye inda. [27] Naho ku birebana n'urubanza Uwizeyimana Jean Claude avuga ko rwari gushingirwaho nawe akagirwa umwere, Uru Rukiko rurasanga koko kuba yararuburanishije asaba ko rwashingirwaho, Urukiko Rukuru rwaragombaga kubisuzuma rukareba niba ari imanza zisa ku buryo n'ibibazo birimo byahabwa ibisubizo bimwe, ariko kuri uru rwego rw'ubujurire bwa kabiri, Urukiko rukaba rutakemura ikibazo rwashyikirijwe rugendeye kuri urwo rubanza kuko rudategetswe gukurikiza imirongo yo mu manza zaciwe n'inkiko ziri hasi yarwo, kandi rukaba rwagaragaje ko kwemera icyaha Uwizeyimana yakoreye

5 Reba igika cya 18 cy'urwo rubanza.

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mu nzego z'iperereza kugomba gushingirwaho mu kumuhamya icyaha, ko no kuba umwana wavutse atari uwe bitamushinjura. Urukiko rurasanga na none iby'uko hirengagijwe ingingo ya 111 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha nta shingiro bifite, kuko nta gushidikanya kuri ku bimenyetso byashingiweho. [28] Hashingiwe ku byasobanuwe, Urukiko rurasanga ubujurire bwa Uwizeyimana Jean Claude nta shingiro bufite, ariko hakaba hasuzumwa ibirebana n'igihano yahanishijwe. [29] Imikirize y'urubanza rwajuririwe igaragaza ko Urukiko Rukuru rwamuhanishije igifungo cy'imyaka makumyabiri kivuye ku gihano cya burundu yahanishijwe n'Urukiko Rwisumbuye bitewe n'uko yari yahanwe nk'ubwasambanyije umwana uri munsu y'imyaka cumi nine (14) mu gihe U.D yari afite cumi n'ine (14) n'ukwezi kumwe, bikaba byumvikana ko usibye kuba icyo gihano kiri mu rugero Itegeko riteganywa (20-25), hatarabayeho gusuzuma niba ari cyo gikwiranye n'uburemere bw'icyaha yakoze, kuko n'ubwo hatakwirengagizwa ko ari icyaha gikomeye, umwironndoro we utagaragaza ko hari ikindi cyaha yigeze ahanirwa, bivuze ko ari ubwa mbere akurikiranwe mu nkiko mu buryo buzwi, iyo mpamvu rero ikaba yarashoboraga gushingirwaho agahabwa igihano kigabanyije. [30] Mu kugabanya icyo gihano, harashingirwa ku zindi manza zaciwe ku bantu barezwe icyaha nk'icyo Uwizeyimana Jean Claude akurikiranweho, harimo urubanza RPAA00278/2024/CA rwaciwe ku wa 21/02/2025 haburana Ubushinjacyaha na Turikumwe Marc wari mu kigero kimwe na Uwizeyimana kuko bose bakoze icyaha bafite imyaka 25, nawe akaba yararezwe gusambanya umwana w'imyaka cumi n'itanu (15), Urukiko rubyibwirije rukaba rwaramugabanyirije igihano rushingiye ku kuba ari ubwa mbere akurikiranweho icyaha mu buryo buzwi rumuhanisha igifungo cy'imyaka cumi n'ine (14); bityo kuba na Uwizeyimana Jean Claude ari ubwa mbere akurikiranwe mu nkiko mu buryo buzwi, bahanwa mu buryo bumwe mu rwego rwo gutanga ubutabera busa ku bibazo bisa, nawe agahanishwa igihano cy'igifungo cy'imyaka cumi n'ine (14), bivuze ko urubanza rwajuririwe ruhindutse gusa ku birebana n'igihano yari yahanishijwe. III. ICYEMEZO CY'URUKIKO [31] Rwemeje ko ubujurire bwa Uwizeyimana Jean Claude nta shingiro bufite ; [32] Rwemeje ko imikirize y'urubanza RPA00677/2021/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 27/09/2024, ihindutse gusa ku bijyanye n'igihano Uwizeyimana Jean Claude yari yahanishijwe ; [33] Ruhaniye Uwizeyimana Jean Claude igifungo

cy'imyaka cumi n'ine (14) mu mwanya w'igifungo cy'imyaka makumyabiri (20) yari yahanishijwe ; [34] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta kuko Uwizeyimana Jean Claude yajuriye afunze, akaba asonewe kuyatanga.

6 Ibyo kuba urukiko rwasuzuma ibirebana n'igihano uregwa yahawe n'ubwo ubujurire bwe nta shingiro bufite, Urukiko rw'Ubujurire rwabitanzeho umurongo mu rubanza RPAA00039/2021/CA rwaciwe 02/07/2021 haburana Ubushinjacyaha na Shakabatenda Jean de Dieu, wakurikijwe no mu manza zaciwe vuba, nk'urubanza Urubanza RPAA00398/2021/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 21/03/2025 haburana Ubushinjacyaha na Niyomugabo Mose 7 Ingingo ya 133 al. 3,10 y'itegeko N°68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange yateganyaga ko uwasambanyije umwana uri hejuru y'imyaka 14 ahanishwa igifungo kitari muni y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25).

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