

UGANDA / JUDGMENT

Musiime Alex alias Kadidi v Uganda (HCT-05-CR-MA-0004-2004) [2004] UGHC 87 (10 March 2004) [2004] UGHC 87

COURT

High Court of Uganda

CASE / FILE NUMBER

HCT-05-CR-MA-0004-2004

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is is an application for bail which is brought under the open-ended {\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid8544671\charrsid8544671 Article {\rtlch\fcs1 \ai\af0 \ltrch\fcs0 \insrsid8544671\charrsid8544671 23 {\rtlch\fcs1 \af0 \ltrch\fcs0

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Constitution of Uganda. It is not so clear why this was the choice procedure. Be that as it may the applicant brought in mitigation facts relating to his ill health which

was said to be grave by both Achieng and Dr. Luwala. It is contended by the applicant that exceptional circumstances do therefore exist for his release on bail vide S. 15 of the Trial on Indictment Act, Cap. 23 of the Laws of Uganda. An accused suffering

from grave illness is therein required to be so certified by a medical officer of the prison or other institution or place where the accused is detained as being incapable of adequate medical treatment wh}{\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid8544671

ile the accused is in custody.

\par }{\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid8544671\charrsid1116798 An affidavit sworn by Ms Achieng was introduced. She is said to be in charge of matters of health at the Mbarara Prison. She added further in her affidavit that {\rtlch\fcs1 \af0 \ltrch\fcs0

\insrsid8544671 she had sworn the affidavit in \lquote {\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid8544671\charrsid1116798 verification and proof of the fact that the said Musiime Alex Alias Kadidi suffers from grave illness namely peptic ulcers and asthma

\rquote . Section 15 of the Trial on Indictments Act envisages a medical officer and no one else to certify grave illness. Nothing useful emerges from Ms Achieng\rquote s averment therefore as she is by no means a medica}{\rtlch\fcs1 \af0 \ltrch\fcs0

\insrsid8544671 l officer.

\par }{\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid8544671\charrsid1116798 It is Dr. Luwala who is a medical doctor. He qualifies to the status of a medical officer. \line His affidavit was to the effect that he is a medical doctor at Luwala Nursing Home in \line

Mbarara. He stated that he has been a personal doctor to the applicant ever since 1996.

It was not revealed whether that was on a retainer. He certified the peptic ulcers and asthma the applicant suffers from to be grave illness. He added that the ailments necessitate constant medical attention and treatment which h

e is not able to offer the applicant while he is in prison because of lack of ready access to the doctor whenever he requires the doctor's help.

I note that the applicant was first held on remand on 24 September 2003. Ever since then he has not had access to his doctor though it is not made clear when he attempted to do so

and was prevented by anybody.

In the circumstances I give order to the Prison authorities to allow the applicant to summon and receive the services of his doctor without let or hindrance in order to alleviate the app

licant's present circumstances.

Given that order there should be no need for consideration of grant of bail. I so find and order.

P. K. Mugamba

Judge

10th

March 2004
line Mr. Ngaruye for applicant
line Applicant in court
line Ms Amumpaire State Attorney
Court:

Ruling read in court.

P. K. Mugamba

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