



Carl Peter Erdliner v. Government of Rwanda

Case NÂ° RPA 0646/10/HC/KIG

Country: Rwanda

Region: Africa

Year: 2010

Court: High Court at Kigali

Health Topics: Chronic and noncommunicable diseases, Health care and health services, Mental health, Prisons

Human Rights: Freedom of expression, Right to due process/fair trial, Right to health

Facts

The appellant brought this appeal of a decision by the GASABO Intermediate Court that ordered his pre-trial detention for thirty days. The appellant appealed on multiple procedural grounds and also alleged that the lower court failed to properly appreciate the impact of his medical condition in determining whether pre-trial detention was appropriate.

The Prosecution alleged that the appellant committed the offense of denying and minimizing genocide by means of publications and conferences in contradiction to national law, as well as the offense of spreading malicious rumors that could cause a threat to national security. The Prosecutor alleged that the appellant's publications failed to distinguish between genocide and civil war and were intended to stir up civil disobedience. After a criminal investigation began, the appellant was arrested, charged and detained. Upon the completion of the interrogation by the police, the Prosecution filed a criminal case against him at the GASABO Intermediate Court and requested that he be placed in pre-trial detention pending the completion of the investigation in the case. Although the appellant presented evidence of compromised physical and mental health and claimed that detention would worsen his well-being, the Intermediate Court authorized his pre-trial detention for thirty days.

In this appeal, the appellant claimed that his rights were violated on two procedural grounds, namely that the Intermediate Court lacked material and territorial jurisdiction to try his detention case and that the decision was rendered in a language that the appellant did not speak or understand (as well as his lawyers). With regards to the merits of the Intermediate Court's opinion regarding his pre-trial detention, the appellant appealed on several grounds, including the fact that the judge failed to appreciate the medical condition of the appellant and consequently to grant him bail on health grounds. Evidence presented at the appellate level showed that the appellant suffered from bicuspid aortic valve, hypertension, acoustic neuroma, hypertipidemia, diverticulosis, depression, and chronic insomnia. His doctors claimed that detention was likely to worsen his condition.

Decision and Reasoning

The Court held that there was sufficient evidence that the appellant suffered from physical and mental ailments that warranted his release from detention for the duration of the investigation in the case against him. The Court did not find any violations based on the procedural claims of the appellant.

With regards to the jurisdiction of the Intermediate Court, the Court held that the Intermediate Court did have jurisdiction to make a determination regarding pre-trial detention. While there may have been an issue if the Intermediate Court had heard the substantive case against the appellant, it was entitled to make decisions regarding pre-trial detention matters.

With regards to the judgment of the Intermediate Court being given in a language that the appellant did not understand, the Court found that this was not a violation of his human rights. While it would be a blatant deprivation of fair trial rights if a person was tried and put to his defence in a language he does not understand, it was not a violation of those rights that the judgment itself was delivered in a language foreign to the appellant or his lawyers. The Court found that the judge in a given case should be entitled to render his opinion in whichever language he was comfortable using as long as that language is one legally permitted in the jurisdiction.

With regards to the claim that the Intermediate Court failed to properly appreciate the medical condition of the appellant, the Court found in favor of the appellant and ordered that he be released from detention on health grounds pending the duration of the investigation against him. The Court found that when the appellant requested bail at the Intermediate Court, he presented some documentary proof of his medical condition. At this appeal, further evidence was presented in the form of three additional medical reports. Although the Prosecution was skeptical of the authenticity of the ailments alleged in the letters, the Court held that they were sufficient evidence that the appellant had compromised physical and mental health. The Court expressed concern that the appellant needed treatment for these conditions that would be unavailable to him in Rwanda. Based on the medical condition of the appellant, the Court held that the appellant must be released for the duration of the investigation in the case against him as it would be unjust to put his life at risk and unjust to continue to deal with him as if he was or is capable of forming an intention to commit an offence.

As the Court found in favor of the appellant on this ground, it did not consider the appellant's other substantive grounds for appeal.

Decision Excerpts

[36]. Having regard to all the circumstances of the case, and without delving further into the whole of the appellant's physical and mental health records, I have sufficient reason to believe that here is a case of an appellant, still at the pre trial phase, no matter how grave the accusations, whose health must take precedence over the case against him.

[37]. One reason he must be released is that it would be unjust to put his life at risk of morbidity or mortality as suggested by his Doctors. The second is that this Court, judging from the appellant's own oral submission and the various medical reports he tendered in evidence, has sufficient reasons to believe the appellant's account of his past and present state of psychological and mental health and consequently cannot continue to deal with him as if he was or is and capable of forming an intention to commit an offence. Intent in criminal proceedings must mean that an action or omission was done with full knowledge of the author that it is the act he is doing.

[38]. This Court would be doing grave injustice if it tried a person, even for his detention, over actions or omissions he might have committed under a psychological or mental disorder.