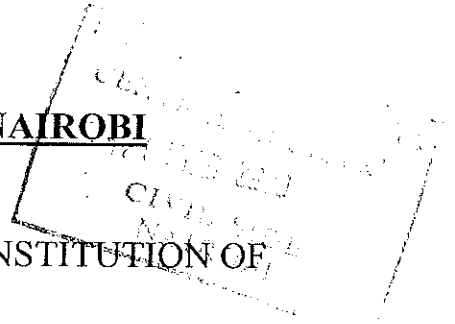


REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
PETITION NO. 429 OF 2008



IN THE MATTER OF: SECTION 84(1) OF THE CONSTITUTION OF KENYA

IN THE MATTER OF: CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER SECTION 70, 72, 74, 77 & 81 OF THE CONSTITUTION OF KENYA

BETWEEN

MARIAM MOHAMED1ST PETITIONER
SALIM KHAMIS JUMA.....2ND PETITIONER
(ON BEHALF OF THE SUBJECT: MOHAMED ABDULMALIK)

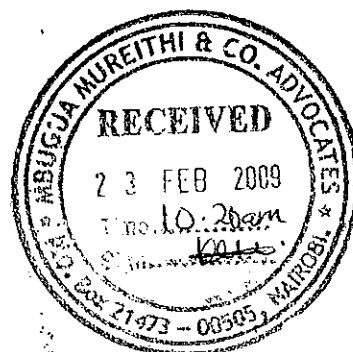
AND

THE COMMISSIONER OF POLICE 1ST RESPONDENT
THE HON. ATTORNEY GENERAL OF KENYA2ND RESPONDENT

REPLYING AFFIDAVIT

I ANCENT KALOKI C/O ANTI TERRORISM POLICE UNIT (ATPU) NAIROBI in the Republic of Kenya do hereby make oath and state as follows:-

1. **That** I am a Chief Inspector of Police attached to ATPU Nairobi and having been part of the team that investigated the subject herein am therefore competent to swear this affidavit on behalf of the respondents.



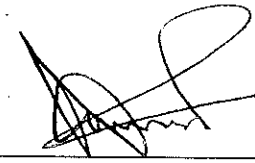
2. **That** I have read and understood the contents of the 1st petitioner's affidavit sworn on the 16th of July 2008 in support of the petition and the supplementary affidavit sworn by one Zachary P. Katznelson sworn on 4th of February 2009.
3. **That** I reiterate the contents of my affidavit sworn on 29th October 2007 and which has been annexed to the 1st petitioner's affidavit and marked B1.
4. **That** I again confirm as stated in OB NO. 36/27/02/2007 that the subject herein was arrested on 13 – 02 – 2007 and was released on 28-02-2007. A copy of the OB extract has been annexed to the 1st petitioner's affidavit.
5. **That** the subject was released after investigations into his criminal activities did not yield sufficient evidence with which to charge him.
6. **That** the subject was being investigated for suspicion of having been involved in the commission of a capital offence.
7. **That** at the time the subject was arrested he had no document on him to prove neither his identity nor his nationality.
8. **That** the subject gave the names that appear in the OB extract mentioned in paragraph 4 above, that is, **Abduljabar Ibrahim** and **Abdulmalik Rajab Mohamed**. Another alias that he goes by that came up during investigations was **Bajabu**.
9. **That** paragraph 7 of the applicants' affidavit is not true as I did not witness any officer at the Central Police Station assault the applicant and to my knowledge no complaint has been lodged by the applicant to the officer in charge of the station.
10. **That** a search was conducted at the National Registration Bureau using his fingerprints and two of his aliases and no records were found making the question of his nationality uncertain. (*Annexed hereto is a letter from the National Registration Bureau with the results of the search marked as exhibit 'AK I'*).

11. **That** despite the fact that he may have gone to school in Kenya that does not make him a Kenyan.
12. **That** of my own knowledge, the ATPU officers do not torture, mistreat or threaten suspects but carry out their duties professionally and therefore any paragraphs in the two affidavits alluding to any mistreatment of the suspect while in custody is denied. Further to my own knowledge no such complaint was registered from the subject to my superior officers or to me during the period that he was in custody until his release.
13. **That** am aware that while in custody the subject was not denied any visitation rights.
14. **That** am not aware of any personal items that were taken from the subject by any ATPU officer including any monies or telephones. No such complaint was made to my superiors and had this happened action would have been taken against the concerned officers.
15. **That** contrary to what has been stated in the supplementary affidavit the ATPU does not use plastic handcuffs.
16. **That** contrary to what has been stated in the supplementary affidavit there is no Inspector within the ATPU ranks known as Wanjala.
17. **That** the subject was released from the Spring Valley Police Station and was not handed over to the Americans as alleged in the two affidavits.
18. **That** I would not know what happened to the subject after he was released from our custody.
19. **That** the American Government press release annexed to the affidavit sworn by the 1st petitioner herein does not state that the subject was handed over to them by the Kenyan authorities:

20. That what has been deponed to herein is true to the best of my knowledge and belief.

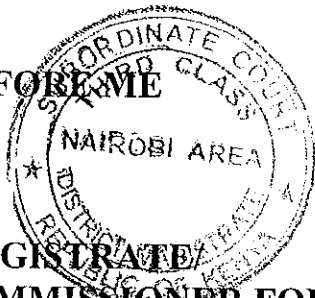
Sworn at Nairobi this 20th day of FEBRUARY 2009


By the said)
ANCENT KALOKI)



DEPONENT

BEFORE ME)




R. W. NDERITU
DISTRICT MAGISTRATE)

MAGISTRATE)
COMMISSIONER FOR OATHS)

DRAWN & FILED BY:-

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