...actions before and after the shooting," gun shots were confusing as many people... to Saul Health Ministries Uganda, part... itor yesterday.

TASO fined Shs190m for misdiagnosing man with HIV

BY ANTHONY WESAKA

KAMPALA. The Aids Support Organisation (Taso) has been ordered to pay Shs190 million in damages for negligently diagnosing a man as HIV positive and placing him on antiretroviral therapy (ART) for seven years despite him being HIV negative.

In a judgment delivered on February 18, Jinja High Court Judge Joanita Bushara held that Taso failed to follow mandatory HIV testing guidelines, leading to grave and long-term harm to Mr John Wataka, a security guard.

"The defendant's (Taso) failure to implement the World Health Organisation consolidated guidelines for HIV testing services constituted negligence. The plaintiff (Mr Wataka) endured seven years of unnecessary medication, loss of marriage, loss of employment, social isolation, and psychological trauma. These are profound injuries to dignity and personhood," Justice Bushara ruled.

The court awarded Shs140 million in general damages and Shs50 million in aggravated damages, bringing the total award to Shs190 million. The amount will attract a 10 percent annual interest from the date of judgment until the full payment is made.

According to court records, Mr Wataka voluntarily sought HIV testing at Taso, a nationally recognised centre of excellence in HIV care in Jinja in 2016. He was informed that he was had the HIV virus and was immediately enrolled on ART.

Relying on Taso's professional expertise, he took the medication consistently for seven years.

He experienced persistent adverse reactions, including excessive sleep, dizziness, weakness, and difficulty performing his duties as a private security guard and storekeeper while taking the antiretroviral drugs (ARVs).

In 2022, while seeking to access benefits from the National Social Security Fund (NSSF) under a scheme for persons living with HIV, independent tests, including a PCR test — returned HIV negative results. Shocked by the findings, Mr Wataka returned to Taso Jinja, where fresh tests again showed he was HIV negative.

Ruling.

When a person's liberty, family life and identity are at stake, a specialist institution must exercise vigilance beyond the routine. The plaintiff (Mr Wataka) entrusted his life to the defendant (Taso); that trust was betrayed by systems that valued procedure over person."- Justice Joanita Bushara, Jinja High Court judge

In his suit, he contended that the misdiagnosis led to the breakdown of his marriage, loss of employment, social stigma, and severe psychological distress. He sought Shs150 million in compensation and declarations that TASO acted negligently in diagnosing him and wrongfully administering ART for seven years.

Taso admitted that Mr Wataka had tested at its facility and that he was placed on ART. However, it argued that the viral load result at the time indicated 50 copies per millilitre, suggesting the presence of HIV. The organisation also maintained that it followed the serial testing algorithm approved by the Ministry of Health, noting that HIV test kits are not 100 percent accurate.

Justice Bushara observed that as a specialist institution, Taso owed Mr Wataka a high duty of care once he presented himself for HIV testing.

She cited the HIV and Aids Prevention and Control Act and the National Implementation Guidelines for HIV Counselling and Testing (2010), which require pre-test and post-test counselling, adherence to approved testing algorithms, and strict quality assurance measures.

Additionally, individuals diagnosed as HIV positive must be retested before initiation of ART to verify their status.

In her judgment, Justice Bushara warned against blind reliance on protocol at the expense of professional judgment.

"When a person's liberty, family life and identity are at stake, a specialist institution must exercise vigilance beyond the routine. The plaintiff (entrusted his life to the defendant; that trust was betrayed by systems that valued procedure over person," she ruled.

CamScanner