Applicant Submissions on Arguability Nugatory Risk and Election Public Interest

Educational sample 099 | Supreme Court of Kenya at Nairobi

Educational reconstruction based on a reported Kenyan decision. This is newly drafted text, not an original court filing, not a matter handled by our team, and not proof that a sample argument succeeded. Parties, parcels and identifying case details in the specimen are replaced with bracketed fields. Do not sign, swear or file it without checking your facts, jurisdiction, applicable rules and court directions.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA AT NAIROBI

CASE OR APPLICATION NO [insert appropriate reference]

[APPLICANT OR CLAIMANT] v [RESPONDENT OR DEFENDANT]

WRITTEN SUBMISSIONS

1. The Applicant addresses arguability, risk that the appeal becomes nugatory, and public interest separately. The application is ancillary to the petition already filed and does not seek a final declaration of the successful candidate.

2. On arguability, the preserved legal question is [constitutional issue and record pages]. The Applicant identifies a genuine issue requiring appellate determination, rather than repeat every disputed count or factual allegation as a constitutional point.

3. On nugatory risk, the gazette schedules a by-election for [date]. The affidavit explains what would occur if that process concludes before judgment in the appeal and why later relief would not adequately preserve the appeal’s purpose.

4. On public interest, the Court should consider timely representation, orderly electoral administration and the use of public resources. Assertions of wasted expenditure are qualified by the evidence actually available, and voters’ interests are not omitted.

5. The vacancy has triggered a constitutional period. A stay of specified statutory steps is not a request to enlarge the Constitution’s deadline. The Applicant proposes an expedited appeal timetable capable of respecting the verified remaining period.

6. The Respondents’ right to be heard and the electoral body’s administrative position should be accommodated through prompt service and focused directions. Relief should identify the specific judgment, election process and duration rather than suspend unrelated activity.

7. Any request to preserve election security is tied to the existing deposit order and custody evidence. The historical KES 500,000 deposit in Wanjohi is a fact of that matter, not an automatic current security requirement.

8. The Court is invited to grant the precisely framed stay and conservatory prayers, retain jurisdiction over expedition and leave costs as appropriate. The source grant of stay does not predetermine whether a different election appeal satisfies these conditions.

DATED at [place] on [date]. [Signature of party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected party and address].

Use and evidence notes

Use current rules 31–32 and the actual filing directions. The source ruling expressly refused any power to enlarge the constitutional ninety-day period. An arguable appeal alone is not the entire stay inquiry, and this parliamentary template must not be used as a presidential election petition.

Source and procedural limits

A Mathare parliamentary election dispute produced competing winner-certification issues and an appellate order for a fresh election. A vacancy had been declared and a by-election gazetted while a Supreme Court appeal awaited determination.

The Supreme Court granted stay and conservatory relief, retained the KES 500,000 election security, and left costs in the cause. Arguability, risk of a nugatory appeal and public interest supported relief. The constitutional ninety-day vacancy deadline could not be enlarged.

Constitution Articles 101(4)(b) and 163(4)(a); Supreme Court Act; current Supreme Court Rules 2020 rules 31 and 32. This is a parliamentary appellate specimen, not a presidential election petition under separate presidential-election rules.

Supreme Court Civil Application 6 of 2014 — 29 April 2014. Source: https://supremecourt.judiciary.go.ke/wp-content/uploads/2026/07/George-Mike-Wanjohi-v-Steven-Kariuki-IEBC-Milliam-Wanjiru-Gachihi-SC-Application-No.-6-of-2014-Ruling-29th-April-2014.pdf

The linked original judgment may identify parties. This public specimen omits their names. Historical allegations are not presented as established facts. A different result in your own proceedings is possible.