Motion for Stay Pending a Parliamentary Election Appeal

Educational sample 096 | 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]

NOTICE OF MOTION

1. The Applicant applies in Supreme Court Petition [number], filed on [date], for stay pending determination of that appeal. The petition and the specific Court of Appeal judgment dated [date] are identified in the supporting affidavit and record.

2. Prayer one: stay execution of the challenged judgment and its consequential election directions pending determination of the appeal. The precise paragraphs to be stayed are [identify]; the motion does not seek an unspecified suspension of all electoral law.

3. Prayer two: grant a conservatory direction restraining the electoral body from conducting the particular by-election while the appeal is determined, subject to the Constitution and an expedited timetable. The gazette notice and vacancy date are identified.

4. Prayer three: preserve the election security deposit identified in the record pending the appeal, if supported by the actual orders and present custody position. The source amount is not automatically used as the required security in a different proceeding.

5. The appeal raises an arguable preserved constitutional issue concerning winner certification and the appellate remedy. The Applicant identifies the issue and record references without asking the Court to determine the final winner on this interlocutory motion.

6. Without limited preservation, a fresh election may occur before the appeal can be effectively determined. The supporting affidavit identifies the actual scheduled event and the practical consequence alleged, rather than rely on a generic claim of irreparable harm.

7. Public interest requires an effective appeal, careful use of election resources and timely representation. The Applicant requests an expedited hearing before the constitutional vacancy deadline, recognising that the Court cannot enlarge that deadline.

8. The motion is accompanied by the required written submissions and evidence. Urgent treatment is separately requested by certificate and affidavit where justified. Costs are sought in the cause or as the Court determines.

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

Under current rule 31, do not originate this interlocutory motion before the petition is filed. Rule 32 governs urgency. Wanjohi is a historical parliamentary election stay ruling: it does not supply current ballot forms or presidential-election filing rules.

E1 filed petition reference; E2 appellate judgment; E3 vacancy notice; E4 gazette schedule; E5 actual security-deposit order and custody evidence.

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.