Petition of Appeal on Historical Inhuman Treatment and Delayed Constitutional Claims

Educational sample 131 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA

PETITION OR APPLICATION NO [reference]

[APPELLANT OR APPLICANT] v [RESPONDENT]

PETITION OF APPEAL

1. The Appellants challenge dismissal of the constitutional petitions concerning treatment by police during the historical protest events described in the record.

2. Article 163(4)(a) is invoked because the superior courts interpreted the applicable constitutional protection, evidential threshold and effect of delayed filing. The appeal is confined to those questions determined below.

3. The Appellants contend that the courts failed to distinguish physical injury from psychological and other inhuman treatment. Absence of a medical report does not resolve every pleaded form of mistreatment.

4. They challenge the treatment of delay without sufficient regard to the contemporaneous political and judicial circumstances explained in the evidence. They do not assert that every old constitutional claim is automatically timely.

5. They seek declarations and appropriate individual compensation, with costs. The quantum sought must be reasoned from the record; the source award of KES 2,500,000 each is not a universal tariff.

DATED at [place] on [date]. Signed [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

Complete the court, parties, appealed decision and service fields. Rule 39 requires concise facts, grounds, supporting arguments, relief and an annexure schedule in Form G. This core pleading must accompany the applicable record and fee under rule 38. Establish the Article 163(4) gateway and check notice, filing and service dates. A historical losing argument is not a recommended new ground. Do not attempt to reopen a decided case merely by using this specimen.

Schedule of annexures: [index each relevant document by label, date, description and page]; [identify the appealed judgment]; [trial judgment or order]; [relevant pleadings]; [certification ruling, if applicable].

Source and procedural limits

Six claimants challenged police treatment during a historical protest and related events. The High Court dismissed their petitions and the Court of Appeal upheld dismissal. The Supreme Court considered delayed filing, proof of inhuman treatment and the appropriate individual remedy.

The consolidated appeals succeeded in part. The Court found inhuman treatment under section 74(1) of the repealed Constitution and awarded KES 2,500,000 to each appellant, with costs at all three levels. It accepted the explanation for delay in the historical context; it did not create a universal damages tariff.

Historical events must be assessed against the rights regime applicable when they occurred. Distinguish torture from inhuman or degrading treatment, and physical from psychological harm. Explain filing delay with an individual chronology. A bias allegation raised only in oral argument was not entertained.

[2023] KESC 3 (KLR) — 27 January 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=590

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.