Petition of Appeal on the Magistrates Vetting Jurisdictional Bar

Educational sample 101 | 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 Appellant appeals the Court of Appeal judgment dated [date] insofar as it reopened challenges to the transitional vetting decisions affecting the Respondents. The impugned judgment and the High Court decrees are identified at record pages [pages].

2. Jurisdiction is invoked under Article 163(4)(a). Interpretation of section 23 of the Sixth Schedule was directly determined in both courts below; this is not an attempt to add a constitutional label to a fresh employment dispute.

3. The first ground is that the appellate court read subsection (2) in isolation from subsection (1), thereby excluding magistrates from the integrated transitional vetting scheme merely because one subsection refers expressly to a judge.

4. The second ground is that allegations about the merits, evidence and fairness of suitability assessments were permitted to reopen determinations insulated by the constitutional scheme. A genuine excess of the board’s temporal mandate must be identified separately.

5. The Appellant seeks restoration of the High Court decrees. It does not seek a new assessment of any magistrate’s suitability or an advisory declaration about a board that no longer exists.

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

Four magistrates were found unsuitable by the transitional vetting board. Their internal review attempts failed. The commission implemented removal. The High Court dismissed the subsequent challenges, but the Court of Appeal allowed them. The Supreme Court appeal addressed whether the Sixth Schedule jurisdictional bar extended to magistrates.

The Supreme Court allowed the commission’s appeal, set aside the Court of Appeal judgment and restored the High Court result. Each party bore its own costs. This concerns the special transitional vetting regime, not an automatic immunity for ordinary modern employment decisions.

Read Sixth Schedule section 23(1) and (2) together, and distinguish review of suitability from any legally recognised complaint that the board exceeded its temporal mandate. Constitution Article 163(4)(a) supplies the appellate gateway. The board is now defunct; this is a historical reconstruction.

[2023] KESC 32 (KLR) — 21 April 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=186

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.