

THE REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA

(Coram: Lenaola, SCJ)

PETITION NO. (E017) OF 2021

–BETWEEN–

CHARLES KANJAMA.....APPLICANT

–AND–

**THE HON. ATTORNEY GENERAL
& 82 OTHERS.....RESPONDENTS**

*(Being an application to a Single Judge of the Supreme Court of Kenya for review of the decision of Hon. Ole Keiwua, Deputy Registrar dated 13th January, 2022 declining to admit the Applicant's Notice of Appeal **dated 29th September, 2021** filed against the decision of the Court of Appeal (**Musinga (P), Nambuye, Okwengu, Kiage, Kairu, Sichale & Tuiyott JJ. A**) in Civil Appeals No. E291, E292, E293 and E294 of 2021 delivered on 20th August, 2021)*

RULING OF THE COURT

[1] UPON perusing the Notice of Motion dated 2nd February, 2022 brought under Articles 3(1), 22, 159(2), 163, 258(2) & 260 of the Constitution, Section 3 (e) and 11 of the Supreme Court Act and Rule 3(2), 6(2), 32, 40(3) & 55 of the Supreme Court Rules seeking an order of review and setting aside the decision of the Deputy Registrar in his letter dated 13th January, 2021 declining to accept the Applicant's

notice of appeal against the Judgment delivered by the Court of Appeal in *Civil Appeals No. E291, E292, E293 and E294 of 2021*; a determination of substantial issues of law and procedure on admission of parties to an appeal and that this application be heard prior to the determination of Petitions No. 11, 12 and 13 of 2021 in the ***Hon. Attorney General vs. David Ndi & Others***; and

[2] UPON reading the applicant's grounds in support of his application, his supporting affidavit sworn on 2nd February, 2022 and the applicant's written submissions dated 10th February, 2022 where he contends that Rule 6(1) of the Supreme Court Rules allows a party aggrieved by the decision of the Deputy Registrar to seek a review of the decision; that his application raises fundamental issues for consideration by this Court on the scope of *locus standi* for litigants to lodge causes on constitutional matters and address the question of who can appeal to the Supreme Court; a determination of the question on the effective date of filing an appeal on the e-filing platform and physical filing of the appeal and; on when the Deputy Registrar of the Court communicates the reasons and decisions for rejecting an appeal to a party;

[3] AND having considered the application, I FIND as follows:

(a) The notice of appeal upon which the applicant seeks to have filed challenges the Judgment and Orders of the Court of Appeal delivered on 20th August, 2021. Three appeals challenging this Judgment were filed before this Court being ***The Hon. Attorney General v. David Ndi & Others***, Petitions No. 11, 12 and 13 of 2021 which were heard and Judgment delivered on 31st March, 2022. There is therefore no proper notice of appeal that can be filed challenging the consolidated appeal after delivery of judgment in the petition. The application has therefore been overtaken by events.

(b) The applicant is also seeking a determination of issues regarding who may file an appeal to this Court generally and the issue of whether the Deputy Registrar should always communicate reasons for rejecting an appeal and

how that communication should be made. It is my finding that such matters relate to substantive issues which cannot be decided in an otherwise straight forward interlocutory application seeking an order of review.

(c) The upshot of my finding is that the application before me has no merit on substance and in any event, has been overtaken by events.

[4] I therefore make the following Orders:

- (i) ***The Notice of Motion dated 2nd February, 2022 is hereby dismissed.***
- (ii) ***Each party shall bear their own costs.***

[5] It is so ordered.

DATED and DELIVERED AT NAIROBI this 19th day of May, 2022.



.....
I. LENAOLA
JUSTICE OF THE SUPREME COURT

The seal of the Supreme Court of Kenya is a large, semi-transparent watermark in the background. It features a central scale of justice, with the words 'THE SUPREME COURT' at the top, 'JUDICIARY' in the middle, and 'REPUBLIC OF KENYA' on a banner at the bottom.

I certify that this is a true copy of the original

**REGISTRAR,
SUPREME COURT OF KENYA**