



**Issack v Republic (Miscellaneous Criminal Application
E113 of 2024) [2024] KEHC 9949 (KLR) (31 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9949 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E113 OF 2024**

DR KAVEDZA, J

JULY 31, 2024

BETWEEN

ABDULLAHI ABDILLE ISSACK APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant filed the present notice of motion seeking an order directing the Chief Licensing Officer, Firearms Licensing Board to forthwith release the Applicant's Firearm Serial No. B61xxxx issued under Firearm License Number 00xxx. The application is grounded on averments on the face thereof and supported by an affidavit sworn by the applicant.
2. The applicant holds a Civilian Firearm License, No. 00xxxx, issued by the Firearm Licensing Board on December 30, 2016, and has used the firearm lawfully since its issuance. However, in July 2023, the applicant was charged in Milimani Criminal Case No. E492 of 2023, leading to the confiscation of the firearm during the investigation. On October 29, 2023, the case was withdrawn under Section 204 of the *Criminal Procedure Code*. Despite this, the applicant has been unable to retrieve the firearm, which remains unlawfully detained for over nine months, leaving him exposed to potential danger. The applicant now seeks the court's intervention to have the firearm released to him.
3. When the application came up for hearing on 31st July 2024, the respondent did not raise an objection to the release of the firearm to the applicant.
4. I have considered the application, the affidavit in support and the submissions by the respective advocates on record for the parties.
5. I have noted that the subject matter of this application is the release of a firearm to the applicant. The applicant was charged before the Magistrate's Court at Milimani and as a result his firearm was confiscated during the investigations. However, the case was withdrawn by the prosecution. After the



case was withdrawn, the Applicant sought the release of his firearm to no avail. He was informed that the firearm could only be released by a court order. The only outstanding issue therefore is that the said firearm is still being held by the Chief Licensing Officer Firearms Licensing Board.

6. There is no opposition to the application. The continue withholding of the said firearm does not make any legal sense. Accordingly, this Court finds that the said firearm should be forthwith released to the applicant.
7. In the upshot, the application is allowed in the following terms:
 - i. The Officer in Charge, Chief Licensing Officer Firearms Licensing Board is hereby ordered to release the applicant's (Abdullahi Abdille Issack) firearm serial no. B61xxxx under the Firearms License No. 00xxxx, pursuant to the order issued at Milimani Chief Magistrate's Court Criminal Case no. E492 of 2023 on 29th October 2023 unless the applicant and/or the firearm is under investigation.

File closed.

RULING DATED AND DELIVERED VIRTUALLY THIS 31ST DAY OF JULY 2024

D. KAVEDZA

JUDGE

