



Wekesa v Kenya Power and Lighting Company Ltd & another (Constitutional Petition 12 of 2021) [2023] KEHC 2900 (KLR) (27 March 2023) (Judgment)

Neutral citation: [2023] KEHC 2900 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CONSTITUTIONAL PETITION 12 OF 2021**

PJO OTIENO, J

MARCH 27, 2023

**IN THE MATTER OF ARTICLES 22, 23, 28, 33, 36,
46 & 47 OF THE CONSTITUTION OF KENYA 2010**

AND

IN THE MATTER OF SECTIONS 10 & 11 OF THE ENERGY ACT, 2019

AND

**IN THE MATTER OF THE ENERGY (COMPLAINTS
& DISPUTES RESOLUTION) REGULATIONS 2012**

AND

IN THE MATTER OF FAIR ADMINISTRATIVE ACTION ACT, 2015

AND

IN THE MATTER OF THE APPLICATION

BETWEEN

PROF.DR. MONI WEKESA PETITIONER

AND

KENYA POWER AND LIGHTING COMPANY LTD 1ST RESPONDENT

ENERGY & PETROLEUM REGULATION AUTHORITY 2ND RESPONDENT

Disconnection of power by KPLC without offering reasons for spike in billing is a violation of the right to human dignity, fair administrative action, consumer rights, the freedom of expression, and the freedom of association.

Reported by Yvonne Lukela, Mellan Nyongesa, and John Ribia

Constitutional Law – constitutional petitions – constitutional question – what constituted a constitutional question – whether a claim for violation of rights as a result of the Kenya Power and Lighting Company



Ltd disconnecting the petitioner's power constituted a constitutional question over which the High Court could determine in a constitutional petition – Constitution of Kenya, articles 24 and 165.

Jurisdiction – jurisdiction of the High Court – jurisdiction of the High Court vis-à-vis the jurisdiction of the Energy Regulatory Commission – jurisdiction to determine complaints about Kenya Power and Lighting Company's billing – where the complaints raised violation of Bill of Rights and a claim for damages – whether the statutory reference of disputes to mediation by the Energy Act and its Regulations over complaints raised against Kenya Power and Lighting Company estopped persons from filing constitutional petitions over the complaints even when the complaints raised issues of violations of fundamental rights and freedoms – whether questions of the violation of Bill of Rights were within the jurisdiction of the High Court – Constitution of Kenya, article 165; Energy Act (cap 314) sections 23(1), and 158; Energy (complaints & disputes resolution) Regulations, 2012 (repealed) (cap 314 Sub Leg) regulations 7(1), (3)(b), and 16.

Constitutional Law – fundamental rights and freedoms – right to human dignity, freedom of expression, freedom of association, consumer rights, and right to fair administrative action – where Kenya power and lighting Company Ltd disconnected power to a petitioner for an extended period – where the disconnection was of spiked (elevated) billing which the petitioner had complained about and had not received a response for over a year – whether disconnection of power by the Kenya Power and Lighting Company Ltd for a long period without addressing the complaints of a user over spiked billing was a violation of the right to human dignity, fair administrative action, consumer rights, the freedom of expression, and the freedom of association – Constitution of Kenya, articles 28, 33, 36, 46, and 47; Energy Act (cap 314) sections 23(1) and 158; Energy (complaints & disputes resolution) Regulations, 2012 (repealed) (cap 314 Sub Leg) regulations 7(1), (3)(b), and 16.

Brief facts

The petitioner sought declaratory relief, alleging that the respondents' failure to restore the electricity supply resulted in the violation and continued infringement of his constitutional rights, including the right to dignity, freedom of expression, freedom of association, consumer rights, and the right to fair administrative action. He contended that the 1st respondent disconnected his power supply due to elevated electricity bills, despite his prior written complaint urging the respondent not to do so. The complaint went unanswered, prompting the petitioner to escalate the matter to the 2nd respondent, which acknowledged receipt and promised to address the issue. Nevertheless, power was disconnected before any resolution was reached.

The petitioner stated that the disconnection caused him significant emotional distress and humiliation, particularly as he was perceived by neighbours and relatives as being unable to meet his utility obligations. He asserted that this public perception subjected him to psychological anguish.

In response, the 1st respondent filed a preliminary objection asserting that the court lacked jurisdiction under the Energy Act and its subsidiary regulations, which require that disputes be resolved through alternative dispute resolution mechanisms as the first avenue.

The 2nd respondent maintained that it had not infringed the petitioner's rights. It explained that it required a formal response from the 1st respondent to act on the complaint, but none was forthcoming. It further argued that the petitioner had failed to exhaust the available dispute resolution mechanisms, particularly mediation as prescribed under the (now repealed) Regulation 16 of the Energy (Complaints and Dispute Resolution) Regulations.

In reply, the petitioner filed a further affidavit detailing the steps he had taken to exhaust alternative remedies. He explained that he had requested a copy of the 1st respondent's internal dispute resolution procedures and made efforts to resolve the matter amicably, including through a court-directed settlement process, all of which failed. He also highlighted that the core issue—the unexplained spike in billing—had not been addressed by the 1st respondent. An expert he consulted attributed the elevated bills to overvoltage caused by a flawed algorithm. The resulting report was shared with the 1st respondent, but no response or engagement was received.



Issues

- i. Whether a claim for violation of rights as a result of an electricity supplying company (the Kenya Power and Lighting Company Ltd) disconnecting the petitioner's power constituted a constitutional question over which the High Court could determine in a constitutional petition.
- ii. Whether the statutory reference of disputes to mediation by the Energy Act and its Regulations concerning complaints raised against the Kenya Power and Lighting Company estopped persons from filing constitutional petitions about the complaints, even when the complaints raised issues of violations of fundamental rights and freedoms
- iii. Whether the disconnection of power by the Kenya Power and Lighting Company Ltd for a long period without addressing the complaints of a user of spiked (elevated) billing was a violation of the right to human dignity, fair administrative action, consumer rights, the freedom of expression, and the freedom of association
- iv. Whether regulation 16 of the Energy (Complaints & Disputes Resolution) Regulations (repealed), which did not indicate how long after receiving the complaint an expert or panel was supposed to take to arrive at its findings, contradicted article 47(1) of the Constitution on the right to fair administrative action.
- v. What considerations did the High Court look into when awarding damages in constitutional petitions?

Held

1. The petition was properly before the High Court because article 165 of the Constitution vested upon the High Court the jurisdiction to determine the question of whether a right or fundamental freedom in the Bill of Rights had been infringed or threatened and the jurisdiction to hear any question respecting the interpretation of the Constitution. The petition raised constitutional questions that the court was obligated and mandated to hear and determine. The same was determined by the court in a ruling on the preliminary objection dated August 30, 2022. That determination remained, and any challenge to it ought not be raised for the second time before the instant court. It was *res judicata*.
2. Article 28 of the Constitution vested in every individual the right to dignity and the right to have that dignity respected and protected. The disconnection of electricity diminished the respect and esteem with which fellow villagers held for the petitioner, him being a Dean of the school of Law, and thus a violation of his constitutional right to human dignity.
3. Article 33 of the Constitution provided for the right to freedom of expression, including the freedom to seek, receive, and impart information or ideas. The freedom to express oneself served a very important role in helping individuals to attain self-fulfillment, the discovery of truth, strengthening the capacity of an individual to participate in decision-making processes of the society, and maintaining the other tenets of democracy and the rule of law. It was a valuable freedom that kept democracy and the rule of law growing.
4. Reading and engaging in academic discourse was a tool of and stock in trade of academicians. As a matter of public notoriety, the infinite digital space provided an indispensable source and vehicle for such discourse. That space ran on energy, the provision of which Kenyans had bestowed, to near monopoly, upon the 1st respondent, as a licensee of the 2nd respondent.
5. Human rights remained rights, and fundamental freedoms remained innate in every individual for enjoyment all through, unless there was a justifiable ground for limitation. Insofar as there was no denial that the 1st respondent disconnected the supply while a complaint was pending its response to the 2nd respondent, and without evidence that the disconnection was effected in compliance with the law under section 158 of the Energy Act, the rights of the petitioner to be supplied with electric power, an indispensable facility, were violated with the consequence that he was unable to exercise his trade and freedom of expression.



6. Closely associated with the freedom of expression was the freedom of association, including the right to form, join, or participate in the activities of an association of any kind. The 1st respondent enjoyed a near monopoly and was a state corporation. Rights and fundamental freedoms as designed could only be limited by article 24 of the Constitution. There was no allusion by either of the respondents that there existed any legislation limiting the petitioner's rights, and no justification had been provided for why it was necessary to disconnect the electricity supply soon after the complaint was made and without serving the statutory notice made mandatory under the Energy Act.
7. In disconnecting the power to the petitioner's premises, the 1st respondent could only have intended to disrupt the purposes for which the petitioner sought and contracted the supply of energy to the premises and must be inferred to have intended that all services connected with the availability of electric power to the premises be disrupted. Such include the ability to communicate on the worldwide network.
8. Consumer rights were enshrined in article 46 of the Constitution as well as the Consumer Protection Act which was enacted to prohibit unfair practices. Section 158 of the Energy Act spoke to the right to be heard before adverse action was taken. The 2nd respondent ought to have invoked the 1st respondent to consider the dispute filed by the petitioner. In failing to do so, the 2nd respondent abdicated statutory duty and in the process, contributed to a violation of the law.
9. Inordinate delay and apparent failure by the 1st respondent to address the petitioner's complaint was an outright violation of the letter and spirit of the Energy (Complaints and Dispute Resolution) Regulations, 2012, and also the Fair Administrative Actions Act which enshrined upon every person the right to administrative action that was expeditious, efficient, lawful, reasonable and procedurally fair and if a right or fundamental freedom of a person had been or was likely to be adversely affected by administrative action, the person had the right to be given written reasons for the action.
10. The unexplained undue delay pointed to a failure by the 1st respondent to address the petitioner's complaint in accordance with its creating statute and amounted to a violation of the petitioners' right to fair administrative action under article 47 of the Constitution.
11. Regulation 16(4) of the Energy (Complaints & Disputes Resolution) Regulations, 2012 provided that the Expert or Dispute Resolution Panel should hear and determine a dispute within thirty days. A holistic reading of the regulation showed a desire and intention that dispute resolution be expedited with definite timelines set. Even though the language employed was more permissive rather than compulsive, the spirit and letter of the law in the Fair Administrative Actions Act were eminent. The statute created mechanisms within the establishments of both respondents with set timelines and disagree with the assertion that it contradicted and negated on the right to fair administrative actions. The regulations in general were robustly fashioned but a re-look was necessary so that the subjective liberty to use the best endeavours and unbridled discretion of the commission to enlarge time were made time bound on proven necessity.
12. The High Court had jurisdiction whenever the question of violation of constitutional rights was raised whereas the Energy Regulatory Commission had jurisdiction limited to the investigation of disputes on electric power charges.
13. An award of damages in cases of constitutional redress was not merely compensatory as in common torts but also vindicatory. Vindicatory meant that the purpose of an award was to vindicate the right of a complainant. The petitioner's constitutional rights were violated by the 1st respondent, and being minded to make appropriate declarations, it was also determined that the petitioner had suffered damage and deserved vindication by an award of damages. The conduct by the respondent in failing to adhere to the statutory obligations was a matter the court disapproved of and considered a valid reason to penalize the two in costs. That was in addition to the fact that the petitioner, as the successful party was entitled to costs.

Petition allowed.



Orders

- i. Declaration issued that the petitioner's fundamental rights and freedoms as enshrined under articles 28, 33, 36, 46, and 47 of the Constitution (right to human dignity, freedom of expression, freedom of association, consumer rights, and right to fair administrative action) had been contravened and infringed upon by the respondents.
- ii. Order of mandamus issued compelling the 1st respondent to restore and keep restored electric supply to the petitioner's premises supplied by account no 36xxxxx85 pending investigations and a determination of the petitioner's complaint by the 2nd respondent.
- iii. Order of mandamus issued compelling the 2nd respondent to complete investigations and issue a decision in the dispute relating to electricity supply to account no 36xxx68 within thirty days from the date of the instant judgment.
- iv. The petitioner was awarded damages in the sum of Kshs 800,000 payable by the 1st respondent.
- v. The 1st respondent was to bear the costs of the petition.

Citations

Cases

Kenya

1. *Attorney General & another v Andrew Maina Gitinji & another* Civil Appeal 21 of 2015; [2016] KECA 817 (KLR) - (Followed)
2. *Benjob Amalgamated Limited & another v Kenya Commercial Bank Limited* Petition 352 of 2007; [2007] KEHC 2803 (KLR) - (Mentioned)
3. *CNM v WMG* Constitutional Petition 586 of 2017; [2018] KEHC 8434 (KLR) - (Mentioned)
4. *Coalition for Reform and Democracy (CORD) & Kenya National Commission on Human Rights (KNCHR) v Republic of Kenya & another* Petition 628 & 630 of 2014; [2015] KEHC 6984 (KLR) - (Mentioned)
5. *COD (Suing on His Behalf and on Behalf of His Children Both Minors MMOD & CHAD) & another v Nairobi City Water & Sewerage Co. Ltd* Petition 419 of 2015; [2015] KEHC 7762 (KLR) - (Explained)
6. *Communication Commission of Kenya & 5 others v Royal Media Services Ltd & 5 others* Petition 14, 14A, 14B & 14 C of 2014 (Consolidated); [2014] eKLR - (Mentioned)
7. *Dhow House Limited v Kenya Power and Lighting Company* Constitutional Petition E058 of 2021; [2022] KEHC 11840 (KLR) - (Followed)
8. *Donovan, Alan E v Kenya Power & Lighting Company* Petition 309 of 2018; [2021] eKLR - (Followed)
9. *Imanyara, Gitobu & 2 others v Attorney General* Civil Appeal 98 of 2014; [2016] KECA 557 (KLR) - (Explained)
10. *Kariuki, Peter M v Attorney General* Civil Appeal 79 of 2012; [2014] KECA 713 (KLR) - (Mentioned)
11. *Kenyatta, Uhuru Muigai v Nairobi Star Publications Limited* Petition 187 of 2012; [2013] eKLR - (Mentioned)
12. *Khalud, Hussein & 16 others v Attorney General & 2 others* Petition 21 of 2017; [2019] eKLR - (Mentioned)
13. *KKB v SCM & 5 others* Constitutional Petition 014 of 2020; [2022] KEHC 289 (KLR) - (Mentioned)
14. *Kooba Kenya Limited v County Government of Mombasa* Constitutional Petition 12 of 2017; [2022] KEHC 1631 (KLR) - (Mentioned)
15. *Luucho, Eliud Wefwafwa & 3 others v Attorney General* Constitutional Petition 121, 123, 124 & 125 of 2016; [2017] KEHC 3511 (KLR) - (Followed)
16. *Mtalaki, Maggie Mwauki v Housing Finance Company of Kenya* Constitutional Petition 70 of 2013; [2015] KEHC 5857 (KLR) - (Mentioned)
17. *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* Civil Appeal 290 of 2012; [2013] KECA 445 (KLR)



18. *Munga, Alphonse Mwangemi & 10 others v Africa safari Club Nairobi* Petition 564 of 2004; [2008] KEHC 1532 (KLR)
19. *MWK & another v Attorney General & 4 others; Independent Medical Lega Unit (IMLU) (Interested Party); The Redress Trust (Amicus Curiae)* Constitutional Petition 347 of 2015; [2017] KEHC 1496 (KLR) - (Mentioned)
20. *Oyugi, Edward Akong'o & 2 others v Attorney General* Constitutional Petition 441 of 2015; [2019] KEHC 10211 (KLR) - (Mentioned)
21. *Republic v Paul Kihara Kariuki, Attorney General & 2 others ex parte Laws of Kenya* Judicial Review Application E0045 of 2020; [2020] KEHC 3289 (KLR) - (Mentioned)
22. *Standard Limited, Ben Agina & David Obito v Christopher Ndarathi Murungaru* Civil Appeal 187 of 2014; [2016] KECA 70 (KLR) - (Mentioned)
23. *Wamari, Lucas Omoto v Attorney General & another* Civil Appeal 213 of 2014; [2017] KECA 334 (KLR) - (Mentioned)

Zimbabwe

Chawira & another v Minister of Justice Legal and Parliament Affairs & another [2017] ZWCC 3 - (Mentioned)

Regional Court

Olum & another v Attorney General [2002] 2 EA 508 - (Mentioned)

Statutes

Kenya

1. Constitution of Kenya articles 22, 23, 24, 28, 33, 36, 46, 47(1); 159; 165 - (Interpreted)
2. Energy (Complaints & Disputes Resolution) Regulations, 2012 (Repealed) regulations 7(1)(3)(b); 16(4)(6) (cap 314 Sub Leg) - (Interpreted)
3. Energy Act (cap 314) sections 23(1); 158 - (Interpreted)
4. Fair Administrative Actions Act (cap 7L) In general - (Cited)

Advocates

Mr Ododa for the 1st respondent

Ms Chebon for the 2nd respondent

JUDGMENT

The Petition

1. By way of a petition dated December 21, 2019, the petitioner seeks the following orders: -
 - a) A declaration be and is hereby issued that failure by the first and second respondents to restore electricity supply at the subject account No 36xxxx85 has led to violation and continuing infringement of petitioners right to dignity, freedom of expression, freedom of association, consumer rights and to fair administrative action.
 - b) A declaration that regulation 16 of the [Energy \(Complaints & Disputes Resolution\) Regulations 2012](#) is unconstitutional, null and void.
 - c) An order of *mandamus* be and is hereby issued compelling the first respondent to restore electricity supply to account No 36xxxx85 immediately or within 24 hours of this order pending resolution of the main dispute.



- d) An order of *mandamus* be and is hereby issued compelling the second respondent to complete investigations and issue a decision in the dispute relating to electricity supply to account No 36xxxx8 within two (2) weeks of this order.
- e) The first and second respondents jointly and severally pay damages to the tune of Kenya Shillings Five Million (Kshs 5,000,000) for violation of the petitioner's various rights.
- f) The costs of this petition be provided for."

The Petitioner's Case

2. The petitioner asserts having been a customer of the 1st respondent and holder of account No 36xxx68. He contends that between the month of January 2021 and November 2021, him and members of his family spent less than 3 days at the facility served by account No 36xxx68 only to receive elevated bills of Kshs 14,365 on June 3, 2021, Kshs 3,606/- on June 27, 2021 and Kshs 22,151 on November 2, 2021. Aggrieved, he wrote a complaint to the 1st respondent on November 12, 2021 asking them not to disconnect power supply which letter elicited no response prompting him to write a complaint to the 2nd respondent on November 29, 2021 which letter was acknowledged by the said 2nd respondent with a promise that his complaint had been forwarded to the 1st respondent. However, before the 1st respondent could address the complaint, there was a disconnection of power supply which plunged the premises into darkness thus leading to a violation of his constitutional rights under articles 28, 33, 36, 46 & 47 of the [Constitution of Kenya, 2010](#).

Respondents' Cases

3. The first respondent resisted the petition by the Notice of preliminary objection dated January 3, 2022 alleging that the court's jurisdiction was ousted or postponed by dint of the provisions of the [Energy Act](#), the Regulations made thereunder as read with article 159 of the [Constitution](#). Even though that preliminary objection was dealt with in limine disposed of by a ruling dated the August 30, 2022, no further opposition to the petition was filed but the 1st respondent by the submissions dated February 17, 2022 insists in regurgitating the same points. Those submissions while conceding that there resides jurisdiction in the court to determine alleged violation of rights, contends that there is no jurisdiction in the court to award the reliefs sought. The court record shows thus, that there was no response filed to the petition by the 1st respondent who however challenges the petition on the strength of the submissions filed.
4. Through the replying affidavit of Agnes Mitei, a consumer protection officer of the 2nd respondent, sworn on September 14, 2022, the 2nd respondent takes the view and position that it was a mandate of the 2nd respondent to investigate and determine complaints or disputes between parties over any matter relating to licenses and license conditions under the [Energy Act, 2019](#).
5. She averred that the 2nd respondent received a complaint from the petitioner regarding escalated power bills for his rural home which complaint they escalated to the 1st respondent in accordance with regulation 7(1) of the [Energy \(Complaints & disputes Resolution\) Regulations, 2012](#) which requires that the 1st respondent resolves disputes by consumers before escalating to the 2nd respondent and which information they communicated to the petitioner.
6. She contends that the petitioner lodged a complaint on November 29, 2021, provided engagements with the 1st respondent on the 2nd of December 2021 which evidence of engagement was forwarded to



- the 1st respondent on the December 16, 2021 but the current petition was filed on December 21, 2021 thus not giving the 2nd respondent a chance to investigate the matter before an order for reconnection of power was issued.
7. For that reason, the 2nd respondent argues and contends that it did not contravene the petitioner's constitutional rights since it requires information from the 1st respondent as well to make an informed decision, but that information was not forthcoming from the 1st respondent. The said 2nd respondent then adds that there are dispute resolution mechanisms created under the Act's Regulations which permit issuance of interim orders to preserve the substratum of the dispute as the determination, which are time lined, are awaited. It pleads having done its best to resolve the dispute but the petition failed to appreciate and exhaust the dispute resolution under the statute and short circuited and circumvented the law by premature lodging of this petition and thus undeserving of the orders sought.
 8. On the allegation that regulation 16 of the *Energy (Complaints & disputes Resolution) Regulations, 2012* contradicts article 47(1) of the *Constitution*, she asserts that it does not since regulation 7(1) of the *Energy (Complaints & disputes Resolution) Regulations, 2012* provides that when a complaint is referred to the 2nd respondent, the 2nd respondent shall appoint a mediator who shall assist in reaching a settlement within 30 days from the date of such appointment and that according to regulation 7(3)(b), the provision of regulation 16 becomes applicable when parties have been unable to resolve a dispute through mediation with regulation 16(4) requiring that an expert or a dispute resolution panel be appointed to resolve a dispute within 30 days and that regulation 16(6) provides that the commission shall review the decision made by the expert of the dispute resolution panel within 30 days from the date of submission.
 9. When served with the response by the 2nd respondent, the petitioner filed further affidavit whose gist is that; as a professor and dean of a school of law, his work revolves around research locally and internationally, supervision of and examination of postgraduate thesis; he engages in creative abilities and has created mobile apps, maintains a website(s), and several social media contact and serves in international sports committees all of which activities rely on internet connectivity, which is equally dependent upon electric, because businesses are transacted virtually since the dawn of Covid19.
 10. He then underscored the attempts he made at seeking to exhaust the dispute resolution mechanisms including seeking to be furnished with the 1st respondents dispute resolution procedures on the March 17, 2022, which request is yet to be responded to, and that even the direction by the court that parties attempt a settlement outside court yielded no result as the report prepared by the 1st respondent failed to address the core issue in the dispute being huge spikes in in bills and further concerns were never addressed. An expert commissioned to study and enlighten the petitioner on the 1st respondent's report returned a verdict of overvoltage and thus spiked billing attributable to an algorithm which falls for resolution by the 1st respondent. However, that report by the petitioner's expert was duly shared with the respondents who have both chosen not to comment on same since February 24, 2022.
 11. Being a petition on pure questions of application and interpretation of the law under the statute and the constitution, and with the concurrence of the parties, the petitions was directed to be canvassed by way of written submissions pursuant to which directions, the parties filed respective submissions with the petition taking the liberty to file submissions in response to those by the respondents. The petitioner's submissions were filed on the November 23, 2022, together with further affidavit bound in same bundle, those by the 1st respondent were filed on the February 17, 2023 while those by the 2nd respondent were filed on the January 5, 2023. Responses to those submissions were filed by the petitioner on the 7th January and March respectively.



Petitioner's Submissions

12. They identify five issues for determination namely; a) whether the actions of the 1st and 2nd respondent violated various rights and fundamental freedoms of the petitioner; b) whether regulation 16 of the [Energy \(Complaints and Dispute Resolution\), 2012](#) is unconstitutional; c) whether the doctrine of exhaustion of ADR remedies was necessary in this petition; d) what to make out of the expert report and; e) whether the petitioner deserves the prayers sought.
13. On whether the actions of the 1st and 2nd respondent violated various rights and fundamental freedoms of the petitioner, the petitioner submits that a single act such as disconnection of electricity supply could lead to a multiplicity of causes of action on violation of human rights and cite the case of [Attorney General & another v Andrew Maina Gitinji & another](#) [2016] eKLR and [Alan E. Donovan v Kenya Power & Lighting Company](#) 2021] eKLR. He contends that the disconnection of electricity supply to his rural hum led to a violation of his rights to dignity, freedom of expression, freedom of association, consumer rights and the right to fair administrative action.
14. On the violation of his right to dignity, the petitioner submits that he was embarrassed and shamed beyond measure causing him psychological anguish as he was viewed by relatives and neighbors as a person who cannot afford to pay for electricity. He further states that the darkness around the premises was likely to attract unwanted guests in the form of wild animals and he lived in fear of being attacked and/or his property being vandalized and that he was unable to enjoy modern facilities like a fridge, freezer, microwave, telephone and computer.
15. On the violation of his freedom of expression, the petitioner submits that i) he has created mobile apps registered by the Copyright Board of Kenya which apps require gadgets like a computer or mobile phone and connectivity to the internet to work properly and the power disconnection meant that his artistic abilities were hampered with; ii) as a professor, he is obliged to conduct research, publish papers and write books and materials required for research are found online and that he supervises post graduate students, online, which activities were not possible with the power disconnection; and iii) he is a member of the Ethics & disciplinary Committee on International Weightlifting Federation and The Disciplinary Committed of Athletics Integrity whose business is conducted online.
16. On the violation of his freedom of association, the petitioner submits that he has about 5000 phone contacts, 10,000 contacts on linkedin and several thousands of other contacts on social platforms such as twitter, whatsapp, Telegram and facebook and lack of power meant that he could not use his phone and/or compute to associate with his contacts.
17. On the violation of his consumer rights, the petitioner submits that his right to protection of economic interests was infringed through levying of exorbitant, unfounded and abnormal sporadic billing by the respondent which according to an expert report resulted from the use of algorithms whose net effect is to generate bills higher than the power actually consumed.
18. On the violation of his right to fair administrative action, the petitioner contends that in failing to respond to his complaints filed in July and November 2021, the 1st respondent breached their duty to act expeditiously, efficiently and fairly under article 47(1). He further asserts that the gate through which a complainant should access the ADR mechanism under the [Energy Act](#) in regulation 5 is non-existent, he was never given a hearing and the lack of timelines for resolution of disputes is a violation of his rights under article 47(1).
19. On whether regulation 16 of the [Energy \(Complaints and Dispute Resolution\) 2012](#) is unconstitutional, the petitioner submits that in determining the constitutionality of a section of a statute, the court has



- to look at the purpose and effect of the impugned statute and cites the case of *Olum & another vs Attorney General* [2002] 2 EA. He claims that the total number of days provided under regulation 16 for the resolution of a dispute is 75 days whereas section 23(1) of the [Energy Act, 2019](#) provides for 60 days and he argues that 75 days without electricity supply disrupts a person's lifestyle completely leading to a violation of his rights. He asserts that regulation 16 of the [Energy \(Complaints and Dispute Resolution\), 2012](#) is in direct conflict with the provisions of article 47(1) of the [Constitution](#)
20. On whether the doctrine of exhaustion of ADR remedies was necessary in this petition, he submits that the preliminary objection dismissed by this court conclusively dealt with the issue by finding that this petition was rightfully before this court.
 21. On what to make out of the expert report, the petitioner submits that the 1st respondent tested the meter at his premises and made a finding that the 'measuring meter' for electricity was not defective and this prompted him to seek the services of an expert, a registered electrical engineer, to analyze the report by the 1st respondent and his finding was that the spikes were due to 'intentional programming (algorithm)' in the billing system to produce inflated bills at intervals of five months; and that those disputed bills do not reflect actual consumption of electricity at the subject meter. He says that the report by the expert was served on the respondents on 24/2/2022 and it remains uncontroverted.
 22. On whether the petitioner deserves the prayers sought, the petitioner submits that courts ought to countenance violation of human rights and cites the case of [Elius Wefwafa Laucho vs The Attorney general](#), Constitutional Petition No. 121 of 2016 consolidated with petitions No. 122 to 125 of 2016. He further argues that it was the finding of the court in [MWK & another v Attorney general & 3 others](#) [2017] eKLR and [Kooba Kenya Limited v County Government of Mombasa](#) [2022] eKLR that an award of compensation will go some distance towards vindicating infringed constitutional rights. He contends that since his rights were violated, he is entitled to damages and cites a number of authorities where the court awarded damages for violation of constitutional rights and they include [Edward Akong'o Oyugi & 2 others v Attorney General](#) [2019] eKLR, [Lucas Omoto Wamari v Attorney General & another](#) [2017] eKLR and [Peter M Kariuki v Attorney General](#) [2014] eKLR.

1st Respondents Submissions

23. The 1st respondent submits that this petition is an ordinary civil dispute that does not raise constitutional issues or seek constitutional remedies and argues that even if a court bestows upon itself jurisdiction, it would still decline to do so if there is still another mechanism through which a dispute can be resolved and cites the case of [Dhow House Limited v Kenya Power and Lighting Company](#) (Constitutional Petition No. E058 of 2021)[2022] KEHC 11840 (KLR), [Communication Commission of Kenya & 5 others v Royal Media Services Ltd & 5 others](#) [2014] eKLR, [Alphonse Mwangemi Munga & 10 others v Africa safari Club Nairobi](#) [2008] eKLR, [Coalition for Reform and Democracy \[CORD\] & 2 others v republic of Kenya & 10 others](#) [2015]eKLR, [Republic v Paul Kibara Kariuki, Attorney General & 2 others ex parte Laws of Kenya](#) [2020] eKLR, [Benjob Amalgamates Limited & another v Kenya Commercial Bank Limited](#) [2007] eKLR, [Uburu Muigai Kenyatta v Nairobi star Publications Limited](#) [2013] eKLR, [Maggie Mwauki Mtaleki v Housing Finance Company of Kenya Ltd](#) [2015] eKLR, [Sports and Recreation Commission v Sagittarius Wrestling Club & another, Chawira & another v Minister of Justice Legal and Parliament Affairs & another, CNM v WMG](#) [2018] eKLR, [KKB v SCM & 5 others](#) [2022] eKLR, [COD & another v Nairobi City water & Sewerage Co. Ltd](#) [2015]eKLR and [Hussein Khalud & 16 others v Attorney General & 2 others](#) [2014]eKLR for the proposition that alternative dispute resolution mechanisms, where applicable must be exhausted before resort to court.



2nd Respondent's Submissions

24. They identify five issues for determination namely a) whether the respondents acted on the complaint lodged by the petitioner; b) whether the respondents deliberately refused to restore power at the petitioner's residence; c) whether the respondents violated and infringed on the petitioner's right to dignity under article 28 of the Constitution, freedom of expression under article 33, freedom of association under article 36 and consumer rights under article 46 and the right to fair administrative action under article 47; d) whether regulation 16 of the Energy (Complaints & Disputes Resolution) Regulations, 2012 contradicts article 47(1) of the Constitution and ; e) whether the respondents should jointly and severally pay damages of Kshs. 5,000,000/- to the petitioner for violation of his rights.
25. On whether the respondents acted on the complaint lodged by the petitioner, the 2nd respondent submits that upon receipt of the petitioner's complaint and follow up emails, it forwarded the complaint to the 1st respondent pursuant to regulation 7(1) of the Energy (Complaints & Disputes Resolution) Regulations, 2012 to confirm if the complaint was sufficiently handled by the 1st respondent. They argue that they did their best to investigate the dispute within reasonable timelines and that the petitioner filing this petition 22 day after lodging the complaint did not give the 2nd respondent a chance to handle the dispute conclusively.
26. On whether the respondents deliberately refused to restore power at the petitioner's residence, it submits that it did not because being a regulator in the energy and petroleum sector, it is mandated to protect both licensees and consumers and it needed supporting documents from the 1st respondent before making a determination.
27. On whether the respondents violated and infringed on the petitioner's right to dignity under article 28 of the Constitution, freedom of expression under article 33, freedom of association under article 36 and consumer rights under article 46 and the right to fair administrative action under article 47, it submits it did not since it acted well within its mandate.
28. On whether regulation 16 of the Energy (Complaints & Disputes Resolution) Regulations, 2012 contradicts article 47(1) of the Constitution, the 2nd respondent submits that regulation 16 ought to be read together with regulation 7 which provides that when a complaint is referred to the 2nd respondent, the 2nd respondent shall appoint a mediator who shall assist in reaching a settlement within 30 days from the date of such appointment and that according to regulation 7(3)(b), the provision of regulation 16 becomes applicable when parties have been unable to resolve a dispute through mediation with regulation 16(4) requiring that an expert or a dispute resolution panel be appointed to resolve a dispute within 30 days and that regulation 16(6) provides that the commission shall review the decision made by the expert of the dispute resolution panel within 30 days from the date of submission.
29. On whether the respondents should jointly and severally pay damages of Kshs 5,000,000 to the petitioner for violation of his rights, the 2nd respondent argues that it acted well within its mandate and did not violate the petitioner's right and should thus not pay the damages.

Issues for Determination

30. I have looked at the petition, the replying affidavit and the submissions by the respondents and identify the following issues for determination: -
 - a) Whether the petition raises constitutional issues?



- b) Whether the petitioner has demonstrated a violation of his constitutional rights as espoused under articles 22, 23, 28, 33, 36, 46 & 47 of the [Constitution of Kenya, 2010](#) by the respondents?
- c) Whether regulation 16 of the [Energy \(Complaints & Disputes Resolution\) Regulations, 2012](#) contradicts article 47(1) of the [constitution](#) ?
- d) Whether the petitioner is entitled to the various reliefs sought or any of them?

Analysis

Whether the petition raises constitutional issues

31. What constitutes a constitutional question was discussed by the court and determined in [CNM v WMG](#) [2018] eKLR to be indeterminate but to include: -

“The constitutionality of provisions within an Act of Parliament; the interpretation of legislation, and the application of legislation.[21] At the heart of the cases within each type or classification is an analysis of the same thing – the constitutionally entrenched fundamental rights. Therefore, the classifications are not discreet and there are inevitably overlaps, but the classifications are nonetheless useful theoretical tools to organize an analysis of the nature of constitutional matters arising from the cases before the Court.”

32. The court has studied the petition and what it raises is the question whether the conduct of the respondents led to a violation of his constitutional rights under articles 22, 23, 28, 33, 36, 46 & 47 of the [Constitution of Kenya, 2010](#) . The petition further questions the legality of regulation 16 of the [Energy \(Complaints & Disputes Resolution\) Regulations](#). Looking at the jurisdiction of this court under article 165 of the [Constitution of Kenya, 2010](#), I find that this petition is properly before this court because article 165 vests upon this court the jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened; jurisdiction to hear any question respecting the interpretation of this Constitution including the determination of; the question whether any law is inconsistent with or in contravention of this Constitution, whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, the Constitution. It is therefore determined that as framed and presented, the petition raises constitutional questions that the court is obligated and mandated to hear and determine.
33. On whether the petition is properly before the court, the court considers the point not available for its determination for the second time. This is because by the ruling on the preliminary objection dated the August 30, 2022, that question was determined by the court and if any party was dissatisfied with the decision, the remedy is on appeal but not rearguing as the two respondents seek to do here. In that decision, the court said: -

“Without specification, the 1st respondent faults the petitioner for having ignored or sidestepped the said special mechanism. For that objection to be merited, the law demands that the mechanisms be available, affordable, effective and efficient/expeditious. The court has set out the complaints by the petitioner and the remedies he seeks. The petitioner even high triggered and provoked by the single act of disconnection of electric supply to his premises, alleges violation of rights and denial of fundamental freedom under the Constitution. To this court the question whether there has been a violation threat to violation of a right or denial of a fundamental freedom is the mandate of the High Court under article 165. I consider that it is not within the mandate of any of the mechanisms to



determine whether the rights of the petitioner have been infringed or his freedoms denied. It is thus the finding of the court that the petitioner could not have approached the special procedures provided under the Act to remedy his grievances.”

34. That determination remains and any challenge to it ought not be raised before this court for the second time. It is as of today *res judicata*.

Whether the petitioner has demonstrated a violation of his constitutional rights as espoused under Articles 22, 23, 28, 33, 36, 46 & 47 of the Constitution of Kenya, 2010 by the respondents

35. It is now settled law that where a petitioner claims violation of his or her constitutional rights and seeks relief under the constitution, the petitioner ought to plead with precision the right that he alleges to have been violated and how it has been violated. See *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2013] eKLR. on the foundation of that trite position of the law, the court will now interrogate each of the rights the petitioner alleges to have been violated

Article 28 of the Constitution of Kenya, 2010

36. To every Kenyan, the Constitution vests the inherent right dignity and the right to have that dignity respected and protected. The significance of dignity as a founding value of the new Constitution acknowledges and serves to enhance the intrinsic worth of human beings who are entitled to be treated as worthy of respect and concern. This right is thus the seed and foundation of many other rights that are specifically entrenched in the Constitution.
37. The petitioner’s position that he has been embarrassed and ashamed, beyond measure causing anguish, and being viewed by relatives and neighbors as a person who cannot afford to pay electricity bills, the darkness around his premises attracts unwanted guests in the form of wild animals and mischievous human being, he lives in fear of having his property vandalized and that he is unable to enjoy modern facilities a fridge, freezer & microwave.
38. The petitioner being a professor and a dean of a School of Law, it would be expected by the people that know him that he is a person of means and should be able to afford electricity bills for his home. I find that the disconnection of electricity supply at his rural home would diminish and did diminish the respect and esteem with which fellow villagers have on him thus violating his constitutional right to human dignity.

Articles 33 and 36 of the Constitution of Kenya, 2010

39. The provision grants to every person in Kenya the right to freedom of expression, including the freedom to seek, receive or impart information or ideas; freedom of artistic creativity; and, academic freedom and freedom of scientific research. The freedom to express oneself serves the very important role in, in helping individuals to attain self fulfilment, the discovery of truth, in strengthening the capacity of an individual in participating in decision-making processes of the society and in maintaining the other tenets of democracy and the rule of law. It is a valuable freedom that keeps democracy and the rule of law growing. See *Standard Limited & 2 others v Christopher Ndarathi Murungaru* [2016] eKLR.
40. The petitioner’s assertion that he was, during the period of disconnection, not able to freely seek, receive or impart information or ideas through digital communication facilities such as Wifi, to exercise his freedom of artistic creativity, inability to exercise academic freedom of scientific research using digital networks and platforms, and to read widely, online, in preparation for teaching and research for the semester that starts in January 2022 has not been controverted by the respondents. The court



recognizes the engagement and undertaking by academicians like the petitioner and is in no doubt that reading and engaging in academic discourse is their tool of and stock in trade. The court further take notice, as a matter of public notoriety, that the infinite digital space provides an indispensable source and vehicle for such discourse. That space runs on energy, the provision of which Kenyans have bestowed, to near monopoly, upon the 1st respondent, as a licensee of the 2nd respondent.

41. Human rights remain rights and fundamental freedoms remains innate in every individual for enjoyment all through, unless there be justifiable ground for limitation. In this matter, the 1st respondent opted not to controvert any of the accusations by the petitioner while the petition has placed before the court materials the court find cogent that the said 1st respondent bludgeoned his electric bill by manipulation. That was indeed a strong accusation that the 1st respondent ought to have responded to. It chose not to and the law then assert that what is asserted by one side and not contested or denied by the other is deemed admitted. In so far as there is no denial that the 1st respondent disconnected the supply while a complaint was pending its response to the 2nd respondent, and without evidence that the disconnection was effected in compliance with the law under section 158 of the [Energy Act](#), the court finds and holds that the rights of the petitioner to be supplied with electric power, an indispensable facility, was violated with the consequence that he was unable to exercise his trade and freedom of expression.
42. Closely associated with the freedom of expression is the freedom of association, including the right to form, join or participate in the activities of an association of any kind. In the petition the petitioner stresses that being subjected to targeted outage, he was unable, to associate, in the digital and online platforms. That has equally an accusation that has not been controverted. It is deemed admitted.
43. The court takes notice that the 1st respondent currently enjoys near monopoly and is in fact a state corporation. It is also a finding of the court that rights and fundamental freedoms as designed can only be limited for in accordance with article 24 of the [Constitution](#). There is no allusion by either of the respondents that there exist any legislation limiting the petitioner's rights and no justification has been preferred why it was necessary to disconnect the electricity supply soon after the complaint was made and without serving the statutory notice made mandatory under the [Energy Act](#).
44. The petitioner asserts that on account of the disconnection he was during the period he was out of supply unable to associate with over 10,000 friends on the digital platforms such as sms, facebook, linkedin, twitter, telegram; he is not able to keep an up to date communication with his contacts on various media platforms and his right to associate with other people through digital platforms was rendered a mirage. The court finds that in disconnecting the power to the petitioner's premises, the 1st respondent could only have intended to disrupt the purposes for which the petitioner sought and contracted the supply of energy to the premises and must be inferred to have intended that all services connected with availability of electric power to the premises be disrupted. Such include the ability to communicate on the worldwide network.

Article 46 of the Constitution of Kenya, 2010

45. Consumers rights are enshrined by article 46 to include have the right (a) to goods and services of the right to be compensated for loss or injury arising from defects in goods or services. It requires that a consumer is provided with information necessary for them to gain full benefit from goods and services. To give effect to the provisions of article 46, parliament enacted the [Consumer Protection Act, 2012](#) which prohibits unfair practices. The court reads section 158 of the [Energy Act](#) to lie in deep congruence with the right to be heard before adverse action is taken, the right to fair administrative



actions and the general law of contract that a contractual right carry with it a property right which ought not be deprived arbitrarily.

46. When petitioner contests the bills levied by the 1st respondent as exorbitant and unfounded; when that complaint is lodged in accordance with the law but it takes the 1st respondent, now more than 12 months to respond to its statutory regulator; and when that regulator stand hamstrung without exercising its power under the act, the law and the order it is intended to serve stands violated and threatened with continued violation. It takes the court, when moved as has been done here, to remind the transgressor that Kenya remains a democracy where the law reigns supreme. That must be the inevitable message to the respondents that, all are subject to the law, and that a creature of the law, must be absolutely bound to comply with the dictates, of the creator to the minutest of such dictates. The court finds that the 1st respondent is by the provisions of *Energy (Complaints & Dispute Resolution) Regulations, 2012* to establish a dispute resolution mechanism and to resolve all disputes under that mechanism expeditiously. It is clear to this court that the time it has taken the 1st respondent to resolve the dispute, including the 40 days given by the court for that purpose, is only indicative that either the mechanism isn't effective nor efficient or that the 1st respondent trashes same with abandon. For the 2nd respondent, it must not act toothless when the statute and the regulations affords to it very immense power for purposes of its regulatory mandate. In the context of this dispute, the 2nd respondent ought to have invoked, in particular, its powers under sections 11(f) and (n) to compel the 1st respondent to consider the dispute. In failing to do so, it has abdicated statutory duty and contributed to the violation of the law.
47. To this court inordinate delay and apparent failure by the 1st respondent to address the petitioner's complaint is an outright violation of the letter and spirit of the *Energy (complaints and Dispute Resolution) regulations* and also the *Fair Administrative Actions Act* which enshrines to every person the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair and if a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.
48. It is not disputed but conceded by the 2nd respondent while the 1st respondent chose not to comment on the assertion that the petitioner lodged a complaint with the 1st respondent on July 1, 2021, which remains unsolved even as I prepare this decision. A second complaint was lodged on the November 12, 2021, which has equally remained unresolved but appear to have been the propellant towards the disconnection of electricity power supply. As said before, the unexplained undue delay points to a failure by the 1st respondent to address the petitioner's complaint in accordance with its creating statute and amounted to a violation of the petitioners' rights under article 47 of the *Constitution of Kenya, 2010*.

Whether regulation 16 of the Energy (Complaints & Disputes Resolution) Regulations, 2012 contradicts article 47(1) of the constitution

49. The cited regulation fits the bill of an alternative dispute resolution mechanism. To this court, and as held in the Ruling on the preliminary objection, such clauses are not ouster clauses taking away the jurisdiction of the court but merely postpones same to give way for parties to pursue the principle of the Constitution that alternative dispute resolution mechanisms be promoted.
50. Regulation 16 of the *Energy (Complaints & Disputes Resolution) Regulations, 2012* stipulates that the commission may refer a dispute filed with it to an expert or a dispute resolution panel and that the expert or dispute resolution panel shall within 15 days from the end of the dispute resolution process



make a finding. To the petitioner, the complaint is that regulation 16(5) does not indicate how long after receiving the complaint an expert or panel is supposed to take to arrive at its findings.

51. Regulation 16(4) of the *Energy (Complaints & Disputes Resolution) Regulations, 2012* does provide that the Expert or Dispute Resolution Panel shall hear and determine a dispute within thirty days. It is the finding of the court that the intention coming from holistic reading of the regulation show a desire that dispute resolution be expedited with definite timelines set. Even though the language employed is more permissive rather than compulsive, the spirit and letter of the law in *Fair Administrative Actions Act* is eminently present. I see the statute to create mechanisms within the establishments of both respondents with set timelines and disagree with the assertion that it contradicts and negates on the right to fair administrative actions. The regulations in general are robustly fashioned but a re-look is necessary so that the subjective liberty to use ‘best endeavours’ and unbridled discretion upon the commission to enlarge time are made time bound on proven necessity. See regulation 16(4).
52. That said, the High court obviously has the jurisdiction whenever the question of violation of constitutional right is raised whereas the Energy Regulatory Commission has jurisdiction limited to the investigation of disputes on electric power charges. In so holding the court is persuaded and reiterates and agrees with the decision of Makau J in *Alan E Donovan v Kenya Power and Lighting Company* [2019] eKLR where he held as follows: -

“ 21. The matter before this court is on the other hand a hybrid case, that involves a dispute between parties governed by the *Energy Act* as well as human rights violations. Both the High court and the Energy Regulation Commission have jurisdiction to hear and determine the issues in the petition. The High court has jurisdiction as far as the question of violation of constitutional right is concerned whereas the Energy Regulatory Commission has jurisdiction to investigate the dispute regarding the electricity charges.”

Whether the petitioner is entitled to the reliefs sought

53. The principles for the award of damages in respect to violation of constitutional rights was reiterated by the court of appeal in *Gitobu Imanyara & 2 others v Attorney General* [2016] eKLR where it was observed as: -

As stated above, the primary purpose of a constitutional remedy is not compensatory or punitive but is to vindicate the rights violated and to prevent or deter any future infringements. The appropriate determination is an exercise in rationality and proportionality. In some cases, a declaration only will be appropriate to meet the justice of the case, being itself a powerful statement which can go a long way in effecting reparation of the breach, if not doing so altogether. In others, an award of reasonable damages may be called for in addition to the declaration. Public policy considerations is also important because it is not only the petitioner's interest, but the interests of society as a whole that ought as far as possible to be served when considering an appropriate remedy.

54. Award of damages in cases of constitutional redress are not merely compensatory as in common torts but also vindicatory in nature. Vindicatory to mean that the purpose of an award is to vindicate the right of a complainant. Here, the court having established that the petitioner's constitutional rights were violated by the 1st respondent, and being minded to make appropriate declarations, it is also determined that the petitioner has suffered damage and deserves vindication by award of Kshs 800,000/- in damages.



55. The conduct by the respondent in failing to adhere to the statutory obligation under the Act and the regulations is a matter the court disapproves and considers a valid reason to penalize the two in costs. This is in addition to the fact that the petitioner having succeeded is entitled to costs.
56. Flowing from the foregoing analysis and having in mind that even though the petitioner alludes not to be acting in public spiritedness, the court considers the dispute to have a face of public litigation, in that it pursues values like strict compliance with the principles of the constitution and the law by the respondents as public agencies. For those said reasons, the court issues the following as the appropriate orders: -
- a. A declaration is hereby issued that the petitioner's fundamental rights and freedoms as enshrined under articles 28,33,36,46 &47 of the *Constitution of Kenya* have been contravened and infringed upon by the respondents;
 - b. An order of *mandamus* is hereby issued compelling the 1st respondent to restore and keep restored electric supply to the petitioner's premises supplied by account No 36xxxx85 pending investigations and a determination of the petitioner's complaint by the 2nd respondent.
 - c. An order of *mandamus* is hereby issued compelling the 2nd respondent to complete investigations and issue a decision in the dispute relating to electricity supply to account No 36xxx68 within thirty days from the date of this judgment.
 - d. The petitioner is awarded damages in the sum of Kshs 800,000 payable by the 1st respondent.
 - e. The 1st respondent shall bear the costs of the petition.

DATED, SIGNED AND DELIVERED IN KAKAMEGA THIS 27TH DAY OF MARCH 2023.

PATRICK J. O. OTIENO

JUDGE

In the presence of

Prof. Moni Wekesa, the Petitioner in person

Mr. Ododa for the 1st Respondent

Ms. Chebon for the 2nd Respondent

Court Assistant: Polycap

