



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**

**(Coram: A. C. Mrima, J.)**

**PETITION NO. 396 OF 2019**

**ALOISE ONYANGO ODHIAMBO & 3 OTHERS.....PETITIONERS**

**-VERSUS-**

**REPUBLIC.....RESPONDENT**

**RULING NO. 1**

1. I have by now come across several matters in the Constitutional and Human Rights Division of the High Court variously seeking orders on reduction and/or review of sentences rendered in criminal matters. This matter is one of them.

2. This matter was instituted in Court in 2019. On 8<sup>th</sup> October, 2019 the then Duty Court made the following order: -

***Upon perusal of the Petition and notice of motion dated 7/10/2019, I direct that the Petitioners be produced in Court on 17/10/2019 when this Petition will be transferred to the Criminal Division where the file for HCCR. Misc. Application No. 276 of 2018, which they have referred to in their pleadings, is domiciled.***

3. The Order has not been varied, set-aside and/or reviewed.

4. There are definitely good reasons why Divisions in the High Court were created. Any such Division is indeed a Court station and is headed by a Presiding Judge.

5. The Divisions are principally aimed at enhancing specialization and efficiency. Judges in a Division deal with similar matters every working day. The possibility of quicker finalization of such matters coupled with the development of consistent jurisprudence is hence a reality. Further, dealing with similar matters in one Division negates the need for files to be transferred to other Divisions. There is, as well, the need to eradicate what may be seen as forum shopping by litigants.

6. All the Divisions of the High Court have the constitutional jurisdiction bestowed upon the High Court under Article 165 of the Constitution. They can interpret the Constitution and grant appropriate orders.

7. In this matter the Petitioners stated that their criminal matter was handled by **Justice Kimaru** in the Criminal Division. Accordingly, they contend, they ought to be heard by another Judge preferably from the Constitutional and Human Rights Division.

8. As far as I am aware there are several Judges in the Criminal Division. The matter can hence be competently handled by another Judge. I am, therefore, in agreement with the order made on 8<sup>th</sup> October, 2019 transferring this matter to the Criminal Division.

9. I will make a further order that the order on transfer shall apply to CHR Petition Nos. 83 of 2020; 178 of 2020; 177 of 2020; 176 of 2020; 23 of 2020; 282 of 2019; No. 194 of 2020 and 463 of 2019.

10. Lastly, since most matters like the current one are filed by inmates, there is, therefore, the need for sensitization of the inmates generally either through Court Users Committee or during Prison visits on the need of filing matters in the correct Divisions of the High Court. The Documentation Offices in the Prisons facilities also play a critical role in guiding the inmates accordingly.

11. In the end, the following final orders do hereby issue: -

**(a) This matter is hereby transferred to the Criminal Division of the High Court for further dealing.**

**(b) The order on transfer shall apply to Petition Nos. 83 of 2020; 178 of 2020; 177 of 2020; 176 of 2020; 23 of 2020; 282 of 2019; No. 194 of 2020 and 463 of 2019.**

12. Those are the orders of this Court.

**DELIVERED, DATED and SIGNED at NAIROBI this 17<sup>th</sup> day of December 2020.**

**A. C. MRIMA**

**JUDGE**

**Ruling No. 1 virtually delivered in the presence of:**

**Aloise Onyango Odhiambo, Burfa Dokota, Mohammed Alango Durbu and Ismael Kalamsho Kibiru** Petitioners in person.

**No appearance for the Respondent.**

**Dominic Waweru – Court Assistant.**