REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT VOI

CRIMINAL APPEAL NO 67 OF 2015

B S M……..…......................…………………………... APPELLANT

VERSUS

REPUBLIC………………………………………………… RESPONDENT

(**From original conviction and sentence in Criminal Case Number 241 of 2014 in the Senior Resident Magistrate's Court at Wundanyi delivered by Hon G. M. Gitonga (RM) on 29th September 2015)**

JUDGMENT

INTRODUCTION

1. The Appellant herein, B S M, was tried and convicted by Hon G.M. Gitonga, Resident Magistrate for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the Sexual Offences Act No 3 of 2006. He was sentenced to serve twenty (20) years imprisonment. He had also been charged with the alternative offence of committing indecent act with children contrary to Section 11(1) of the said Act.

2. The particulars of the main charges were as follows:-

"On the 20thday of May 2014 at around 06.00 pm (sic)**at [particulars withheld] Village in Mwachabo Location within Taita Taveta County, intentionally and unlawfully caused his penis to penetrate the vagina of M U M a juvenile aged 14 years."**

ALTERNATIVE CHARGE

"On the 20th day of May 2014 at [particulars withheld] Village in Mwachabo Location within Taita Taveta County, intentionally touched the vagina of M U M a child aged 14 years with his penis."

3. Being dissatisfied with the said judgment, on 25th November2015, the Appellant filed a Notice of Motion application seeking leave to file his appeal out of time. The said application was allowed and the Petition of Appeal deemed to have been duly filed and served. His Grounds of Appeal were as follows:-

> **1. THAT the trial magistrate erred both in law and fact in holding that the appellant person committed the offence yet no evidence was adduced to support the offence at all.**
>
> **2. THAT the trial magistrate erred in both law and fact in holding that there was overwhelming evidence in court to support the case yet the entire evidence was contradictory.**

3. THAT the trial magistrate erred both in law and fact in sentencing the accused person (sic) **person to serve a sentence of 20 years on a charge sheet that was defective.**

4. THAT the trial magistrate erred both in law and fact in holding that evidence adduced in court was corroborated by the doctor's evidence yet the medical report produced in court as an exhibit did not reveal that an offence was committed.

5. THAT the trial magistrate erred both in law and fact in giving an excessive and severe sentence to the appellant.

4. On 26th October 2016, this court directed the Appellant to file his Written Submissions. Instead of doing so, on 23rd November 2016 he filed his Written Submissions together with Amended Grounds of Appeal. His Reply to the State's Written Submissions dated and filed on 20th December 2016 was filed on 16th February 2017.

5. The Amended Grounds of Appeal were as follows:-

1. THAT the Hon. Trial Magistrate erred in law and fact by not considering that he was not supplied with the witness statements contrary to Section 50(2)(c)(j) (sic) **of the Constitution of Kenya.**

2. THAT the Hon. Trial Magistrate erred in law and fact by not considering that his constitutional rights as guaranteed in the Constitution were violated by delayment (sic) **in police custody after 24 hours contrary to Section 49(1)(ii)(g)** (sic) **of the Constitution of Kenya.**

3. THAT the learned Hon. Trial Magistrate erred in law and fact by failing to see that the prosecution case was marred by contradictions (sic) **evidence by both prosecution witnesses in breach of Section 163(1)(c) of the evidence act** (sic)**.**

4. THAT the Hon. Trial Magistrate erred in law and fact by not considering that the prosecution case did not proved (sic) **their case beyond reasonable doubt to link him to the actual act of penetration thus contravening sec. 144 (1) 150** (sic) **of C.P.C. and Sec 109 of the evidence act.**

5. THAT the Hon. Trial Magistrate erred in law when he unreasonable (sic) **rejected his strong defence contrary to Sec. 169(1) and 212 of the C.P.C.**

6. When the matter came up on 16th February 2017, both the Appellant and counsel for the State informed the court that they would not highlight their respective Written Submissions but that they would rely on the same in their entirety. The Judgment herein is therefore based on the said Written Submissions.

LEGAL ANALYSIS

7. Being the first appellate court, this court is under a duty to re-examine the evidence that was adduced in the lower court as was held by the Court of Appeal in the case of **Odhiambo vs Republic Cr. App No. 280 of 2004 (2005) 1 KLR** where it was stated that:-

> "**On a first appeal, the court is mandated to look at the evidence adduced before the trial afresh, re-evaluate and reassess it and reach its own independent conclusion. However, it must warn itself that it did not have the benefit of seeing the witnesses when they testified as the trial court did and therefore cannot tell their demeanour".**

8. It appeared to this court that the issues that were before it for its determination were:-

a. Whether or not the Appellant's constitutional rights were violated for:-

i. not being supplied with witness statements; and

ii. being in custody for more than twenty four (24) hours after his arrest.

b. Whether or not the Prosecution had proved its case beyond reasonable doubt.

i. The court therefore dealt with the issues under the separate heads shown herein below.

I. THE APPELLANT'S CONSITUTIONAL RIGHTS

A. WITNESS STATEMENTS

10. Amended Grounds of Appeal Nos (1) was dealt with under this head.

11. The Appellant contended that he was not accorded a fair trial. He did not elaborate on this submission but merely urged this court to allow his Appeal. He relied on the provisions of Sec 50(2) (c) (j) (sic)of the Constitution. There is no such provision.

12. However, it was evident that he was relying on Article 50 (2) (c) and (j) of the Constitution of Kenya, 2010 which he had set out in his submissions. The said Article provides as follows:-

> **"Every accused person has the right to a fair trial, which includes the right-**
>
> **(c) to have adequate time and facilities to prepare a defence…**
>
> **(j) to be informed in advance of the evidence the prosecution intends to rely on, and to have reasonable access to that evidence…"**

13. On its part, the State argued that on 26th May 2014, the Learned Trial Magistrate directed that the Appellant be supplied with statements and that on 9th June 2014, the said Learned Trial Magistrate directed that he be supplied with the Charge Sheet at his own cost.

14. It averred that the Appellant appeared in court several times but never raised the issue of the witness statements and that when the matter came up for hearing on 29th September 2014, he did not request that the matter be adjourned so that he could obtain the said documentation but that instead, he indicated that he was also ready to proceed with the hearing on that date.

15. This court perused the proceedings in the Trial Court and noted that after the Appellant took his plea on 26th May 2014, the Learned Trial Magistrate directed that the "proceedings" be availed to him. On 9thJune 2014, the Learned Trial Magistrate directed that the Appellant be furnished a copy of the Charge Sheet upon payment. The matter came up in court several times and as the State pointed out, the Appellant did not inform the said Learned Trial Magistrate that he had not been furnished with the said Charge Sheet.

16. Notably, the Learned Trial Magistrate ought to have directed that the Appellant be furnished with Witness Statements and Charge Sheet and not "proceedings" because as at the time of the Plea Taking, no other proceedings had taken place. However, once the Learned Trial Magistrate ordered that the Appellant be furnished with the "proceedings" and the Charge Sheet, it was his responsibility to inform him that he had not received the said "proceedings" and Charge Sheet.

17. Assuming that the use of the word "proceedings" was erroneous, the Appellant never even tried to obtain the Learned Trial Magistrate that he had not received the Charge Sheet or obtain the same at his own cost. Indeed, it was not the responsibility of the Prosecution to furnish the Appellant with the said

documentation at its cost but rather it was sufficient that it made the said evidence available to the Appellant.

18. There was therefore no violation of the provision of Article 50(2)(j) of the Constitution as the evidence the Prosecution intended to rely upon was readily available. It is important to point out at this juncture that this court could not order that the Appellant be furnished with the First Report as he had asked this court to do. Notably, the said First Report was not tendered in evidence during the trial and he had made no formal application for consideration by this court.

19. This court had the occasion to deal with a similar issue in **Julius Mcharo vs Republic [2016] eKLR** in which it rendered itself as follows:-

> **"Notably, if a trial court grants an order that an accused person should be furnished with the evidence the prosecution intends to rely upon and he fails to follow up the same from the prosecution, the blame would lie squarely on him. He would be expected and/or required to inform such trial court that he has not been supplied with the same before he proceeds with the trial. Indeed, such accused person has the right to refuse to commence participation in the proceedings until such time he is furnished with the said evidence."**

20. In the circumstances foregoing, there was no merit in Amended Ground of Appeal No (1) and the same is hereby dismissed.

B. CUSTODY

21. Amended Ground of Appeal No (2) was dealt with under this head.

22. The Appellant argued that although he did not raise this issue before the Trial Court, he was arrested on 23rd May 2014 and arraigned in court on 26th May 2014 which he said violated the provisions of Sec 49(f)(i)(ii)(g) **(sic)**of the Constitution of Kenya, which this court noted was non-existent. It did appear to this court that he was relying on Article 49(1) (f)(i) and (ii) of the Constitution that stipulates as follows:-

> **"An arrested person has the right—**
>
> **(f) to be brought before a court as soon as reasonably possible, but not later than—**
>
> **(i) twenty-four hours after being arrested; or**
>
> **(ii) if the twenty-four hours ends outside ordinary court hours, or on a day**

23. He relied on the cases of **Protus Buliba Shikuku vs Attorney General Constitutional Reference No 3 of 2011** and **Eliud Njeru Nyanga vs (sic) CR APP. NO 182 of 2006**to buttress his submission.

24. On its part, the State argued that the Appellant was arrested on 23rd May 2014 which was a Friday and was arraigned in court on Monday 26th May 2014 in accordance with Article 49(f)(ii) of the Constitution of Kenya. This court found the same to have been the correct position as the twenty four (24) hours ended on Saturday 24th May 2014 which was outside the ordinary court hours and he was arraigned in court before the end of the next court day which fell on Monday, 26th May 2014.

25. In the circumstances foregoing, this court found no merit in Amended Ground of Appeal No (2) and the same is hereby dismissed.

II. PROOF OF THE PROSECUTION'S CASE

26. Amended Grounds of Appeal Nos (3), (4) and (5) were dealt with under the head as they were all related.

27. The Appellant contended that for the offence of defilement to be established, the age of the victim and penetration had to be proved. He averred that the evidence that was adduced before the Trial Court was heresay and the Village elder who was a step mother to the Complainant, M U M (hereinafter referred to as "PW 1") ought to have been called to testify in the case herein. He said that failure to call the Village elder denied him a fair trial.

28. It was his further contention that the sack on which the said offence was alleged to have been committed on was not produced in court as evidence and that the Clinical Officer, Restitutah Mghoi (hereinafter referred to as "PW 5") failed to indicate the type of weapon that caused the penetration. He added that there was a discrepancy in the date of the alleged offence which was shown as 19th May 2014 in the OB of the P3 Form while the Charge Sheet indicated the date as having been on 20th May 2014. He therefore urged this court to re-analyse the evidence afresh.

29. On its part, the State submitted that a proper *voire dire* examination for PW 1 was done in accordance with Section 19 of the Oaths and Statutory Declarations Act Cap 15 (Laws of Kenya). It added that the Learned Trial Magistrate acted correctly when he directed PW 1 to adduce evidence on oath and he could therefore rely on her evidence as a single witness as envisaged in Section 124 of the Evidence Act Cap 80 (Laws of Kenya).

30. It pointed out that PW 1 had testified that the offence occurred on 20th May 2014 at 6.00 pm and that she was certain that she was attacked by the Appellant who she knew well as he was her cousin. It said that there was sufficient lighting at the material time enough for her to have identified the Appellant.

31. It averred that PW 1 confirmed that the Appellant penetrated her and was elaborated on how the whole activity took place. It said that the P3 Form showed that although there were no spermatozoa, PW 1's hymen was broken.

32. It also stated that it was clear that the incident occurred on 20th May 2014 despite the date having been indicated as 19th May 2014 in the P3 Form. Notably, this was an issue that was also raised by the Appellant herein. However, this court was unable to determine what this submission was all about as a perusal of both the P3 Form and the Charge Sheet showed that the offence was said to have been committed on 20th May 2014.

33. The State was categorical that there was no grudge that was shown to have existed between PW 1 and the Appellant herein and that Section 143 of the Evidence Act provides that the Prosecution reserves the right to choose the number of witnesses to call to prove a fact. It argued that the said F W was not called as a witness in this matter as PW 1 was the sole witness on what transpired to her on the material date.

34. It submitted that PW 1 was aged fourteen (14) years of age at the time of the offence, having been born on 14th April 2000 as was evidenced in the Birth Certificate and consequently, the sentence of twenty (20) years was in line with Section 8(3) of the Sexual Offences Act.

35. A perusal of the proceedings showed that the Learned Trial Magistrate directed PW 1 to adduce evidence without establishing whether she knew the meaning of taking an oath. This caused a mistrial of the case herein.

36. In the case of **Johnson Muiruri vs Republic [2013] eKLR**, the Court of Appeal rendered itself as follows:-

> **"We once again wish to draw attention of our courts as to the proper procedure to be followed when children are tendered as witnesses. In Peter Kariga Kiune, Criminal Appeal No 77 of 1982(unreported) we said:**
>
> **"Where in any proceedings before any court, a child of tender years is called as a witness, the court is required to form an opinion, on a *voire dire* examination , whether the child**

> **understands the nature of an oath in which even his sworn evidence may be received. If the court is not so satisfied his unsworn evidence may be received if it is the opinion of the court he is possessed of sufficient intelligence and understands the duty of talking the truth. In the latter event an accused person shall not be liable to be convicted on such evidence unless it is corroborated by material evidence in support thereof implicating him (sec.19, Oaths and Statutory Declarations Act, cap 15. The Evidence Act (section 124, cap 80). It is important to set out the questions and answers when deciding whether a child of tender years understands the nature of an oath so that the appellate court is able to decide whether this important matter was rightly decided, and not be forced to make assumptions."…"**

37. Bearing in mind the consequences of relying on sworn evidence adduced by a child in convicting an accused person when such a child adduces evidence without confirming if he or she understands the meaning of taking an oath before he or she is sworn, this court treated PW 1's evidence with a lot of caution.

38. Be that as it may, where a *voire dire* examination has not been conducted or properly conducted, an appellate court has the power to order that a matter be referred for re-trial. However, a re-trial is also not automatic. A re-trial must only be ordered where no prejudice would be occasioned to an appellant or where it will not give a party seeking a re-trial a second bite at the cherry by panel beating its case to fill gaps in a fresh trial.

39. Indeed, an appellate court will also not order that a re-trial where it finds that a conviction cannot be sustained based on the evidence that is currently before it at the time of hearing and determination of an appeal.

40. In this regard, this court fully associated itself with the holdings in the cases of **Ahmedi Ali Dharamsi Sumar vs Republic [1964] E.A. 481** and re-stated in **Fatehaji Manji vs Republic [1966] E.A. 343** that Mutende and Thuranira Jaden JJ cited in the case of **Jackson Mutunga Matheka vs Republic [2015] eKLR** where it was stated as follows:-

> **"… a retrial will only be ordered when the original trial was illegal or defective. It will not be ordered where the conviction is set aside because of insufficiency of evidence of for the purpose of enabling the prosecution fill up gaps in its evidence at the first trial, even where a conviction is vitiated by a mistake of the trial court for which the prosecution is not to blame, it does not necessarily follow that a retrial should be ordered, each case must depend on particular facts and circumstances and an order for retrial should only be made where the interest of justice required it and not ordered where it is likely to cause an injustice to the accused."**

41. It was on the basis of the above holding that this court deemed it prudent to analyse the evidence on record with a view to establishing whether this matter was suitable for a Re-trial.

42. The Proviso to Section 124 of the Evidence Act provides as follows:-

> **"Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth"**

43. The purport of the aforesaid proviso is that a trial court can choose to believe the evidence of a sole victim of a sexual offence if it is satisfied that such victim is telling the truth. However, it must record the reasons that led it to believe such sole victim.

44. In this case, the Learned Trial Magistrate formed the opinion that PW 1 was telling the truth as she could never have failed to recognise the Appellant as her attacker because he was her cousin. It was his view that this recognition and not his identification by PW 1 which was more assuring.

45. He was emphatic that he had warned himself of relying on her sole evidence as was held in the case of **Karanja & Another vs Republic Criminal Appeal Nos 193 and 195 of 2002**and found that she was not shaken by the long Cross-examination by the Appellant herein. He also stated that he considered the Appellant's alibi but found that it did not displace the Prosecution's case as he had been placed at the scene of crime which was in his house.

46. This court analysed thus analysed the evidence that was adduced in the trial Court to establish whether or not the Prosecution had proven its case beyond reasonable doubt as the Learned Trial Magistrate had found.

47. According to PW 1, she was to pass by the Appellant's house on 20th May 2014after coming from school. She said that he was hiding behind the door and that when he came out, he held her hand and pulled her in his house. She said that he grabbed her, put her on a sack, pulled up her skirt and removed her panty.

48. It was her further evidence that he penetrated her after he had removed his trouser and spermatozoa poured on her thighs. She said that he told her not to tell anyone about what had transpired and when she went home, she did not tell anyone of the incident but only washed her legs when she was going to school the following morning.

49. She stated that she informed **Mr M** (emphasis court), the Deputy Head master of her school of what had transpired and he asked her to get the telephone number of the village elder, one F W, who she said, was her step-mother. During her Cross-examination, she denied that the said F W had prevailed upon her to implicate the Appellant herein. When she was recalled to testify on 26th March 2013, she reiterated that the Appellant had pulled her into his house and that she informed the **Deputy Headmistress** (emphasis court) what had happened on the material date.

50. F M (hereinafter referred to as "PW 2") was PW 1's father. He said that he was informed by the said F W that PW 1 had been defiled and upon going to Mwatate Health Centre, he found PW 1 undergoing some tests. During his Cross-examination, he denied having a grudge against the Appellant herein.

51. S M M (hereinafter referred to as "PW 3") told the Trial Court that PW 1 was his cousin and that the Appellant's mother was his cousin. He said that he was a member of the Nyumba Kumi Initiative. His testimony was that the Village elder from [particulars withheld] Village, one Mama Rajab accompanied by other people came to his house and informed him that PW 1 had been defiled by the Appellant herein. He accompanied the others to the Appellant's house where they arrested him ad took him to Mwatate Police Station.

52. No 41804 Corporal Joseph Mukunzi (hereinafter referred to as "PW 4") reiterated PW 1's evidence. He tendered in evidence the P3 Form. He said that he never visited the Appellant's house to establish how far it was from where he and PW 1 allegedly met. As an Investigator, it was PW 4's responsibility to have conducted thorough investigations with a view to presenting a water tight case that was not dependent PW 1's word against that of the Appellant herein.

53. It did appear to this court that PW 5 also adduced the aforesaid P3 Form in her evidence. Her testimony was that when she examined PW 1 on 22nd May 2014, she had complained of pain when walking. She observed that there were no bruises on the external part of PW 1's vagina but the hymen was broken. She added that although there were no spermatozoa, there was a discharge that was evidence of an infection.

54. Going further, unlike what the Learned Trial Magistrate found, this court noted inconsistencies in PW 1's evidence when she testified on the two (2) different occasions. When she first testified on 29th September 2014, she said that she reported the matter to Mr M who was the **Deputy Headmaster**(emphasis court). He was male. When she was recalled in court on 26th March 2015, she said that she reported the matter to the **Deputy Headmistress** (emphasis court). She was female.

55. Her other contradiction was on who was to inform the Village Elder. She had said that Mr M told her to get the number for the Village Elder while during the second time she testified she said that the Deputy Headmistress told her she would inform the Village Elder about the said incident.

56. Granted PW 1 testified on two (2) different occasions which were six (6) months apart. However, it was imperative that the facts were near as possible to each other so as not to raise suspicion in the mind of this court. Clearly, it was not logically possible for PW 1 to have forgotten within such a short period to whom she had first reported the matter to.

57. Her evidence that the Appellant hid behind the door and pulled PW 1 into his house also piqued this court's curiosity because there was no indication that the Appellant knew she would pass through his house so as to hide behind his door. If indeed he knew PW 1 was passing there, then her evidence on 26th March 2015 was contradictory because she said that she was accosted.

58. At the time PW 1 was examined by PW 5, she presented with an infection. However, no evidence was led by the Prosecution to demonstrate that the Appellant was also infected nothing that he was arrested on 23rd May 2014. PW 4 did not explain why he did not seek to have the Appellant examined as this could have assisted his case if the Appellant was found to have been infected.

59. If the Appellant would not have been to have been infected, PW 4 ought to have conducted further investigations to establish whether or not PW 1 had been sexually active with other people other than with the Appellant herein and if those people could have been responsible for the breaking of her hymen.

60. It is not lost to this court that the Prosecution is not required to call a particular number of witnesses to prove a fact as provided by Section 143 of the Evidence Act Cap 80 (Laws Kenya) that stipulates as follows:-

> ***"In the absence of any provision of law to the contrary, no particular number of witnesses shall be required for the proof of any fact."***

61. Be that as it may, failure to call a crucial witness can deal a fatal blow to a prosecution's case. In arriving at this conclusion, this court had due regard to the holding in the case of**Julius Kalewa Mutunga v Republic [2006] eKLR**which theCourt of Appeal reiterated in**Alex Lichua Lichodo v Republic [2015] eKLR**that:-

> **"As a general principle of law, whether a witness should be called by the prosecution is a matter within their discretion and an appeal court will not interfere with the exercise of that discretion unless, for example, it is shown that the prosecution was influenced by some oblique motive".**

62. This very court made similar observations relating to calling of crucial witnesses in the case of **Paul Mwakio Mwashumbe vs Republic [2016] eKLR**, where a child witness was said to have narrated what had happened to her in the presence of her teacher. It concluded as follows:-

> **"Failure to have called the persons who interrogated PW 1 and the other children and established that PW 1 had been defiled dealt a fatal blow to the Prosecution's case."**

63. Notably, PW 1 was the sole witness. This court found and held that the Prosecution's failure to call the said Deputy Headmaster or Deputy Head mistress, whichever was the case, and F W as witnesses herein diluted PW 1's evidence. There was no evidence that was presented to the court to demonstrate that PW 1's hymen had been broken by the Appellant more so as he was not examined to show if he was also infected.

64. It will be a sad day if the Appellant will go scot free if at all he had actually committed the said offence. However, matters of defilement are very serious and ought not to be treated casually in the manner this court felt the matter was treated at the investigations stage. The long term effects and trauma

to victims and the long sentences that offenders are to serve make it imperative that proper investigations are conducted and conclusive evidence adduced in court.

65. This court noted that the State had on a different occasion conceded to **HCCRA No 1 of 2017 Joseph Macharia Njoroge vs Republic**that was filed at the High Court of Kenya, Voi on the grounds that the evidence of the two (2) minors therein aged thirteen (13) years of age could be challenged as no proper *voire dire* examination was conducted and that there were certain contradictions in their evidence.

66. Although the appellant in the aforesaid case had adduced sworn evidence, this court nonetheless found that the legal and evidentiary burden of proof had not shifted to the Appellant herein despite him having adduced unsworn evidence as the Prosecution's case had too many unexplained gaps, inconsistencies and contradictions.

67. Notably, the Appellant's unsworn evidence did little to shed light on what could have happened on the material date as he did not allude the said date at all. However, he was under no obligation whatsoever to assist the Prosecution or to adduce any incriminating evidence against himself, if at all.

68. Accordingly, having carefully analysed the evidence that was adduced by the Prosecution witnesses, the Appellant's Written Submissions and those of the State and the case law it relied upon, this court came to the firm conclusion that unlike the Learned Trial Magistrate, it was not satisfied that the Prosecution had proven its case beyond reasonable doubt. It did not find any evidence that linked the Appellant to the alleged incident herein.

69. Despite the *voire dire* examination not having been properly conductedwhich occasioned a mistrial in the Trial Court, the many inconsistencies in this case made it an unsuitable case for re-trial.

70. In this regard, this court found the Appellant's Grounds of Appeal Nos (3), (4), (5) and (6) were merited.

DISPOSITION

71. As doubt was created in the mind of this court as to what really transpired on the material date, it hereby quashes the conviction and sets aside the sentence that was meted upon the Appellant by the Trial Court as it would be clearly unsafe to affirm the same.

72. The upshot of this court's judgment, therefore, was that the Appellant's Appeal that was lodged on 25th November 2015 was merited and the same is hereby upheld. The court hereby orders that the Appellant be set free forthwith unless held or detained for any other lawful reason.

73. It is so ordered.

DATED and **DELIVERED** at **VOI** this 13th day of April 2017

J. KAMAU

JUDGE

In the presence of:-

Benson Samuel Mawondo - Appellant

Miss Anyumba - for State

Josephat Mavu– Court Clerk