

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

CRIMINAL REVISION NO. 5 OF 2017

BUDUREGA ERIC 1ST APPLICANT

IRANZI MURAGWA 2ND APPLICANT

VERSUS

REPUBLIC RESPONDENT

RULING

This matter was placed before me under my supervisory jurisdiction. It is sought that the order of the Winam Court that directed that the two applicants herein be deported to their country of origin once they complete their jail terms, be revised. The reason for this is that they came to the country as assylum seekers and the United Nations High Commissioner for Refugees (UNHCR) has declared them to be persons of interest and such to deport them would amount to refolement. The court heard Counsel for the Applicants and for the Respondent. At the time the Applicants were arraigned in the Winam Magistrate's Court they had not been assessed by the United Nations High Commissioner for Refugees (UNHCR) and had therefore not been declared to be persons of interest. Neither did they intimate to the court that they were assylum seekers. The magistrate's court therefore acted within the law in ordering their deportation upon payment of the fine imposed or completion of the jail term in default. A letter written by Catherine Hamon Sharpe – Assistant Representative (Protection) which declares the Applicants as persons of interest has now been brought to the attention of this court. The same calls for revision of the order for deportation pending determination of their assylum claim.

Accordingly the application is allowed. The applicants shall be released to the office of the United Nations High Commissioner for Refugees for relocation to Kakuma Refugee Camp where their assylum claim will be determined. In the event they are not successful they shall be deported to their country of origin as earlier ordered.

E. N. MAINA

JUDGE

Signed, dated and delivered this 3rd day of August 2017

In presence of:-

Miss Kimani for State

N/A for Applicant

Evon – Court Assistant