

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT VOI

CONSTITUTIONAL REVIEW CASE NO 12 OF 2017

JOSHUA KOBIA MWETI.....PETITIONER

VERSUS

PUBLIC PROSECUTION.....RESPONDENT

JUDGMENT

1. This court has heard the Petitioner, Mr Sirima for the Respondent and read the Petition filed on 12th October 2017 and note that Mr Sirima, the Attorney General, though not party to the proceedings herein are not opposed to the said Petition. Indeed Article 38 the Constitution of Kenya, 2010 gives every citizen a right to make free political choices and to express his will for his candidate of choice. Accordingly, I hereby allow the Petitioner's Petition filed on 12th October 2017 as the fresh presidential election will be held on 26th October 2017.

2. This court has also noted the contents or complaints of the Petitioner relating to his safety and treatment at Manyani G K Maximum Prison. In view of the fact that there is no formal application averring that his fundamental rights have been infringed upon and the fact that he was only transferred to Manyani G K Maximum Prison from Naivasha G K Maximum Prison on 21st October 2017 I am not inclined to grant any substantive orders relating to his safety and treatment.

3. Suffice it to state that the officers at Manyani G K Maximum Prison must keep at the back of their minds the provisions of Article 28 of the Constitution by Kenya to ensure the rights of the Petitioner are respected and protected. The Petitioner is at liberty to move this court appropriately in the event he is unable to resolve the issues with the Officer – in – Charge Manyani G K Maximum Prison.

4. It is however, hoped that the Petitioner shall be returned to Naivasha G K Maximum Prison after he votes and/or for the Officer – in Charge Manyani G K Maximum Prison to direct the movement and/or transfer of the Petitioner in accordance with his authority which shall not be dictated by this court, unless this court was to find otherwise following a formal application, if any by the Petitioner.

5. It is so ordered.

DATED and DELIVERED at VOI this 23rd day of October 2017

J KAMAU

JUDGE

In the presence of:-

Joshua Kobia Mwetii- Petitioner

Sirima - for Respondent

Josephat Mavu– Court Assistant