



Ongaro v Directorate of Criminal Investigations & another (Miscellaneous Criminal Application E054 of 2025) [2025] KEHC 7930 (KLR) (9 June 2025) (Ruling)

Neutral citation: [2025] KEHC 7930 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E054 OF 2025**

DR KAVEDZA, J

JUNE 9, 2025

BETWEEN

IAN MICHIEKA ONGARO APPLICANT

AND

DIRECTORATE OF CRIMINAL INVESTIGATIONS 1ST RESPONDENT

OCS AKILA POLICE STATION 2ND RESPONDENT

RULING

1. This is a ruling on an application brought by way of Notice of Motion under Articles 22(1) and (4), 35, 47, 48, and 55(c) of the *Constitution of Kenya*, 2010, and Sections 1A, 1B, and 3A of the *Civil Procedure Act*. The Applicant seeks various orders, mainly an order to compel the 1st Respondent to amend its records and issue a corrected Police Clearance Certificate.
2. The Applicant avers that he applied and paid for a Police Clearance Certificate, which was issued on 10th August 2021. Upon receipt, he discovered the certificate contained an entry stating he had an “outstanding” case of possession of narcotic drugs. He states that while he was previously arrested and taken to the 2nd Respondent’s police station on suspicion of possession of narcotics, investigations were completed and no charges were preferred. He was released without being charged or prosecuted.
3. Despite repeated follow-up, including a letter from his advocates dated 26th January 2023, no corrective action was taken by the Respondents. He claims the misinformation has prejudiced his employment prospects and seeks orders to compel rectification of the records and issuance of an accurate certificate at no cost.
4. He invokes Article 35, which guarantees the right to access and correction of personal information held by the State; Article 47, which guarantees the right to fair administrative action; Article 48, the right to access to justice; and Article 55(c), which obligates the State to take measures to ensure youth



- access employment. He also relies on Article 22, which permits enforcement of constitutional rights through court proceedings.
5. The respondent's despite being given an opportunity to reply and file written submissions, did not challenge the application in any way. The applicant filed written submissions which have been duly considered.
 6. The issue for consideration is whether the applicant should be granted the orders sought.
 7. From a procedural perspective, Section 3A of the *Civil Procedure Act* empowers the Court to make such orders as may be necessary to meet the ends of justice or to prevent abuse of the court process. Section 1A and 1B further establish the overriding objective of ensuring that justice is administered fairly and without undue delay.
 8. The Applicant's averment that no charges were ever instituted and that the record is erroneous has not been rebutted. The continued dissemination of such false information is prejudicial, particularly in view of Article 55(c), which mandates the State to ensure that youth have access to employment and economic opportunities. The inaccurate criminal record impedes this right and contributes to social and economic exclusion.
 9. Article 22(1) entitles any person to institute proceedings for the enforcement of fundamental rights and freedoms, and the Applicant has properly invoked this jurisdiction. The inaction of the Respondents not only violates the Applicant's right to access information but also offends the principles of good governance and accountability enshrined in Article 10.
 10. The Applicant has demonstrated, on a balance of probabilities, that the continued retention and dissemination by the 1st Respondent of inaccurate and misleading information regarding his alleged involvement in narcotic offences infringes upon his constitutional rights under Articles 35(2), 47(1), and 48 of the *Constitution of Kenya*, 2010. Under Article 35(2), every citizen has the right to correction or deletion of untrue or misleading information that affects them. Article 47(1) guarantees the right to fair administrative action, which must be lawful, reasonable, and procedurally fair. The failure to correct inaccurate data, particularly after formal notice and request, constitutes an unjust administrative omission.
 11. It is therefore just, equitable, and legally proper that the 1st Respondent be compelled to amend its records by removing the incorrect entry and to issue a corrected Police Clearance Certificate. No prejudice will be occasioned to the Respondents by the grant of these orders, which merely seek to restore the Applicant's rights and standing under the law.
 12. In the premises, the application is allowed in the following terms:
 - i. The Directorate of Criminal Investigations is directed to amend its records to correct by deleting the misleading record that the said Ian Michieka Ongaro has a pending case of being in possession of Narcotic drugs, which information is untrue.
 - ii. The Directorate of Criminal Investigations is directed to issue Ian Michieka Ongaro with a Police Clearance Certificate (Certificate of Good Conduct) with the correct status upon payment of the requisite standard fees.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 9TH DAY OF JUNE 2025

D. KAVEDZA



JUDGE

In the presence of:-

Omariba for the Applicant

Mutuma for the Respondent

Tonny Court Assistant

