

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO.57 OF 2018

MIGUNA MIGUNA.....APPLICANT

-VERSUS-

THE DIRECTOR OF PUBLIC PROSECUTIONS.....1ST RESPONDENT

THE DIRECTOR OF CRIMINAL INVESTIGATIONS.....2NDRESPONDENT

THE INSPECTOR GENERAL OF POLICE.....3RDRESPONDENT

LAW SOCIETY OF KENYA.....INTERESTED PARTY

RULING

From the submission made, it is clear to this court that there is an obvious contempt of the orders of this court and a deliberate attempt by State agencies to subvert the Rule of Law in this country. Court orders once issued must be obeyed. For this court to make an appropriate determination on what course of action to take, it hereby directs the 2nd and 3rd Respondents (in person) to swear affidavits in regard to the circumstances under which the Applicant was released from their custody to the Directorate of Immigration during the subsistence of a valid court order requiring them to produce the Applicant before this court so that he could be dealt with in accordance with the law. The Director of Immigration, Maj Gen. (Rtd) Gordon O. Kihalangwa must swear an affidavit to indicate under what circumstances he assumed custody of the Applicant when he knew that he was under the custody of the court awaiting his release. The affidavits must be filed and served by Friday on 9th February 2018. The Applicant and the Interested Party have a right to file affidavits in response to the affidavits that shall be filed. Further, the 2nd Respondent Mr. George Kinoti and the 3rd Respondent Mr. Joseph Boinnet must further swear affidavits to show cause why they should not be punished in accordance with the **Contempt of Court Act** for disobeying the orders of this court. They shall be required to appear before this court in person on 15th February 2018 at 9.00 a.m. to show cause. These proceedings are adjourned to that date. It is so ordered.

DATED AT NAIROBI THIS 7TH DAY OF FEBRUARY 2018

L. KIMARU

JUDGE