



**Kioko v Inspector General of Police & 2 others (Judicial Review Application E411 of 2025) [2026] KEHC 2369 (KLR) (Judicial Review) (2 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 2369 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW APPLICATION E411 OF 2025**

**RE ABURILI, J**

**MARCH 2, 2026**

**BETWEEN**

**URBANUS REUBEN KIOKO ..... APPLICANT**

**AND**

**INSPECTOR GENERAL OF POLICE ..... 1<sup>ST</sup> RESPONDENT**

**DIRECTOR OF CRIMINAL INVESTIGATIONS ..... 2<sup>ND</sup> RESPONDENT**

**DIRECTOR OF PUBLIC PROSECUTIONS ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The application by way of Chamber Summons dated 17/12/2025 and filed on 18<sup>th</sup> December, 2025 is brought under the provisions of sections 8 and 9 of the [Law Reform Act](#) and Order 53 Rules 1,3, and 4 of the Civil Procedure Rules, section 11 of the [Fair Administrative Action Act](#) among other provisions of [the Constitution](#) and the law.
2. The exparte applicant seeks leave of this Court to be granted to enable him apply for judicial review orders of certiorari to remove into this court and quash the summons issued by the police on 28<sup>th</sup> October, 2025, 17<sup>th</sup> November, 2025 and 17<sup>th</sup> December, 2025 pursuant to section 52 of the [National Police Service Act](#) requiring the applicant who is an advocate of the High Court and his associates in his law firm, to appear and record statements in an ongoing investigations regarding an affidavit allegedly sworn by one Maxwel Okey Omondi on 21/6/2023 posthumously.
3. The applicant also seeks leave to apply for prohibition to prohibit the Police and the DCI from taking any action in the nature of criminal proceedings against the applicant or his associates at Urbanus Kioko & Company Advocates until the DPP makes a determination on the deposition of an affidavit under oath posthumously by one MAXWEL Okey Omondi on 21<sup>st</sup> June 2023.



4. He also seeks leave to apply for mandamus to compel the Inspector General of Police and the DCI to investigate the alleged death of Maxwell Okey Omondi and his deposition of an affidavit under oath posthumously on 21<sup>st</sup> June, 2023.
5. He also seeks that the leave so granted do operate as stay of the aforesaid summons issued to the applicant and his associates.
6. Those are the main prayers sought plus costs.
7. The application is supported by an affidavit sworn by Urbanus Reuben Kioko Advocate and grounds on the face of the application and statutory statement giving the historical background of the matters giving rise to the impugned police summons.
8. According to the applicant, his firm of advocates received instructions from Trident Insurance Company Limited to act for Carolyn Acheng and Maxwell Okey Omondi who were husband and wife in a road traffic accident claim case in the Chief Magistrate's Court at Nairobi Civil Suit No. E948 of 2022.
9. The applicant deposes that the said Maxwell Okey Omondi swore an affidavit in support of his application to set aside *ex parte* a judgment entered on 16<sup>th</sup> December 2023 against himself in the aforesaid case on 21<sup>st</sup> June, 2023.
10. The applicant deposes that he is not aware of an affidavit sworn posthumously by the said Maxwell Okey Omondi which led to a report being made to Central Police Station on 19/9/2025 vide OB Number 109/19/09/2025 upon which the police issued summons to the applicant and his associates.
11. The applicant asserts that there is no evidence of the death of the said Maxwell Okey Omondi prior to the swearing of the aforesaid affidavit since the Office Administrator of the applicant's law firm confirms that the said allegedly dead deponent had been to the applicant's offices as late as September, 2024.
12. The applicant asserts that his rights and those of his associates are being violated and that the actions by the police are in violation of the LSK Code of Standards and Professional Practice and Ethical Conduct specifically on client advocate confidentiality. That the actions of the police violate Article 244 of *the Constitution* and amount to abuse of power.
13. The applicant annexes to his affidavit the affidavit allegedly sworn posthumously by Maxwell Okey Omondi on 21/6/2023 and the Summons issued to him and his associates by the police requiring them to go and record statements.
14. The 3<sup>rd</sup> respondent and interested party opposed the application. They filed replying affidavits. In the 3<sup>rd</sup> respondent's replying affidavit sworn by Maatwa Kerongo a prosecution Counsel at ODPP, on 7<sup>th</sup> January, 2026, he deposes that the DPP is a stranger to the matters deposed by the applicant and that DPP has not exercised his powers under Article 157(4) of *the Constitution* in directing the Inspector General of Police to investigate the *ex parte* applicant and that no reliefs have been sought against the DPP hence it is waste of judicial time to involve the DPP in these proceedings yet no orders are sought against him, urging this Court to dismiss the application for leave.
15. On the part of the interested party Carolyn Okendi, she filed a replying affidavit sworn on 28<sup>th</sup> January 2026 in which she deposes that the deceased Maxwell Okey Omondi was her husband who died on 9/10/2020 as per the annexed Death Certificate and burial permit, as well as a police abstract report form showing that he died in a traffic road accident in which one other person was also fatally injured



- while the interested party herein who was a passenger survived. The said deceased is reported to have been the driver and owner of the said accident motor vehicle.
16. She deposes that later on 4<sup>th</sup> February, 2025, Auctioneers from Mamalo Auctioneers attached her property namely, motor vehicle registration number KDN 091U without any proclamation which prompted her to establish the reason for the attachment and that it is then that she discovered that a case had been filed against her and her husband and that in that case, whose pleadings are attached, being Milimani CMCC E948 of 2022, the applicant herein purported to be representing her and her husband wherein he applied for setting aside of the *exparte* judgment and entered into a consent with the plaintiff's advocates that gave judgment to the plaintiff James Mwangi Ngugi.
  17. She deposes that this shocked her because her husband died in her presence and she buried him in Homabay hence he could not have sworn an affidavit purporting to support any application for setting aside judgment in the civil suit. Further, that her husband's signature had been forged as he was dead by the time he is purported to have instructed the applicants herein to represent him in the accident claim,
  18. That she made discoveries of a consent judgment entered into on 10<sup>th</sup> August 2023 with the plaintiff's advocates and decree extracted, leading to the attachment of her property in execution of the said decree. She deposes that all that was a fraud and that she reported the matter to the Law Society of Kenya and the Judicial Service Commission who advised her that forgery being a criminal offence it should be investigated by the DCI, She also annexed copies of the correspondence from the Advocates Complaints Commission and marriage certificate showing what she deposes to be her late husband's true signature as opposed to the one appended on the affidavit sworn on 21/6/2023 in support of an application for setting aside judgment.
  19. The interested party therefore supports the investigations to be undertaken to establish how her late husband could have been the one instructing and walking to the applicant's offices years after his death and swearing an affidavit. She also annexes pleadings that she has filed before the CMs Court seeking to set aside the consent judgment on account of fraud.
  20. The application was argued orally on 17/2/2026.
  21. In support of the application, on behalf of the applicant, Dr Paul Gitau submitted that the applicant had made out an arguable case as was held in the Mirugi Kariuki case. That DCI has no jurisdiction to summon all associates in the applicant's law firm to make statements on an affidavit commissioned by an associate in respect of a deceased deponent. Counsel submitted that his client, the applicant had already made a complaint to the DCI Insurance Fraud and that he cannot incriminate himself and that his client and the associates in the law firm are protected from disclosing confidential client information to other people hence it is upon DCI to investigate the matter. He urged that prohibition should issue until DCI and IGP acts on the matter in accordance with the law and that no prejudice will be occasioned to the respondents if leave is granted.
  22. Opposing the application Mr. Achochi for DPP submitted relying on his affidavit and urged that the application seeks no orders against the DPP and is premature as DPP had not received any investigations file from the IG or DCI for action. That the application offends section 9(2) of the *Fair Administrative Action Act* as the applicant had not exhausted the available dispute resolution mechanisms before approaching the Court as was held in the Geoffrey Muthiga Kabiru and 2 other v Samuel Munga Henry and 1756 others. he prayed for dismissal of the application.
  23. On behalf of the interested party, Ms Said submitted relying on her client's replying affidavit, arguing that the Insurance Fraud Investigation has the power to investigate the complaint by the interested party herein and that the applicant cannot be exonerated from investigations. That the applicant



cannot call on the DCI and the IG to investigate the complaint yet he is not willing to heed to the summons issued to him by the DCI.

24. On the threshold for leave, she submitted that leave is to be a filter. She relied on *LSK vs. Njuguna & 2 Others* E065/2025 KEHC 6885 KLR on the importance of filtering Judicial Review to avoid abuse of court process, preserving public resources, protecting public bodies from unnecessary litigation among others.
25. She submitted that no arguable case has been established and that the question of usurping powers by the DCI and IG does not arise and that there was no harassment as alleged. She argued that this not being a constitutional petition, this Court cannot issue judicial review in matters of a deceased person.
26. Counsel for the interested party maintained that the DCI merely wants to investigate the complaint and that there is no illegality or irrationality established. That disagreement with investigative steps cannot ground the leave sought. That there is no ultra vires conduct, bias or procedural impropriety established. That Summons is not an illegality. She submitted that this matter is premature because investigations are ongoing. That there are 3 summonses issued requiring to record a statement but the ex parte applicant refused to heed and rushed to this court to stop DCI from investigating, arguing that Summons is not a final outcome but an initial stage in investigations. She relied on the case of *Matiba vs AG*, and submitted that leave should be refused to protect public interest and resources. On the issue of client confidentiality, it was submitted that this cannot limit investigative processes. She urged this court to decline the leave sought as no arguable case is established.
27. In a rejoinder, the applicant's counsel submitted that it is the DPP who has the mandate to investigate any criminal proceedings against any person and that the applicant has not sought to stop any investigations but the summoning of the associates and the principal and the threats to arrest and detain advocates. Further, that under the LSK Act, investigators have no authority to ask for documents without a court order.

### **Analysis and Determination**

28. I have considered the application as filed, the supporting affidavit and statutory statement and annexures thereto. I have also considered the responses filed by the 3<sup>rd</sup> respondent and the interested party and the respective parties' counsel's oral submissions for and against the orders sought.
29. The main issue for determination is whether the applicant has made out an arguable case to warrant a grant of the leave and stay sought.
30. Before granting leave to apply for judicial review, where a party approaches the court pursuant to sections 8 and 9 of the *Law Reform Act* and Order 53 of the Civil Procedure Rules, the court must be satisfied that an applicant has established a prima facie case and that therefore, the application is technically sound. All documents required to be filed must be on record and the documents are in the form prescribed in law.
31. Secondly, the applicant must have locus standi to institute and maintain the application. Further, that the applicant has sufficient interest or stake in the matter to which the application relates, meaning, the Applicant must not be a busybody on misconceived, trivial and frivolous complaints of administrative error or by those unjustly bent on frustrating or embarrassing the administrative machinery.
32. Thirdly, the application at hand should not be time barred. In the case where an order or decree of the court is being challenged, the application must be brought before the expiry of the statutory 6 months period stated for Orders of Certiorari.



33. The Court also examines other issues before allowing the application for leave and these issues include: whether there is an adequate Alternative Remedy which must first be exhausted as stipulated in section 9 of the *Fair Administrative Action Act*; the utility of judicial review remedy to be sought and whether the court has jurisdiction to grant the reliefs intended in the application for leave.
34. However, where a party files proceedings pursuant to the Fair Administrative Action Rules, 2024 which would be in their right to do so, the court has no opportunity to sieve to establish whether a prima facie arguable case is made. The court proceeds to determine merits of the application as presented.
35. Regarding stay orders, amongst other issues, the court must be satisfied that the application is neither vexatious nor frivolous. The applicant must show that he has an arguable application or prima facie case worth meritorious consideration and determination by the Court. Secondly, courts, in deciding whether or not to order leave to operate as stay, should ensure that the substantive application for judicial review, if successful, is not rendered nugatory and therefore the need to avoid irreparable injury being occasioned to an applicant and the balance of convenience as between the parties.
36. The applicant must demonstrate that unless a stay is granted, the substantive motion will be rendered useless and moot thereby wasting judicial time and resources.
37. Having set out the applicable principles for grant of leave and stay, the question is whether the applicant has demonstrated that he has a prima facie arguable case which is not hopeless or frivolous and whether failure to grant a stay will render the intended application, if leave is granted, nugatory.
38. On whether a prima facie arguable case has been established, the applicant claims that his law firm received instructions from Trident Insurance Company Limited to represent Maxwel Okey Omondi and Carolyne Achieng Okendo in Nairobi CMCC E948 of 2022 and that to apply for setting aside of judgment in the civil suit where the said Maxwel and his wife, the interested party herein are defendants.
39. He deposes that he is aware that Maxwel Okey Omondi swore an affidavit in support of his application to set aside *ex parte* Judgment entered, on 16<sup>th</sup> December, 2023 against himself in the aforesaid case and that he is not aware of the alleged death of the said Maxwel Okey Omondi and his alleged deposition of the affidavit posthumously on 21<sup>st</sup> June 2023 nor is he aware of the report made to the Central Police Station on 19<sup>th</sup> September, 2025 vide OB 109/19/09/2025. He is however aware that the said Police issued him and his associates summons to appear and record statements in respect of the allegations stated above.
40. From the above depositions by the applicant, it would appear that he was not made aware of any evidence of death of Maxwel Okey Omondi, a person he claims even last visited his office in 2024 as per the information received from his Office Administrator.
41. On the part of the Interested party, who deposes in her replying affidavit that she is the widow to Maxwel Okey Omondi, she annexes copies of burial permit and death certificate together with police abstract showing that the said Maxwel Okey Omondi whose middle name in the Police abstract is spelt as (Okey) died on 9/10/2020 in a road accident in her presence and from the said Police abstract, he died on the spot. Further, she was among the passengers in the material accident in which her husband lost his life.
42. She deposes that she was made aware of the case after Auctioneers attached her motor vehicle without issuing her with any proclamation only for her to establish upon inquiry, that there was a consent entered into between the applicant herein and the plaintiff's advocate in the civil suit where her husband and herself are defendants. She claims that the signature on the affidavit in support of the



- application to set aside judgment is not her husband's and she annexes a copy of a marriage certificate to show his real signature. She claims the signature of her husband who was dead by 2023 was forged and that she has since applied to stay execution of decree and setting aside of the consent judgment.
43. The interested party has demonstrated that following the discovery which she considers to be forgeries, as her husband could not have woken up from the dead and come to sign an affidavit before an advocate commissioner for oaths one Assumpta Mbesa, return to the dead, come back to visit his advocates office and be seen by the applicant/ advocate's office administrator and go back to the dead, she wrote to the Judiciary and the Advocates Complaints Commission and the latter advised her that, that was a matter with a criminal element hence she should report to the DCI for investigations.
44. That she then reported to the DCI and upon submitting the documents which she has availed to this court, the DCI issued the applicant advocate and his associates summons to appear and record statements regarding the allegations of fraud.
45. With the above detailed background information on oath and which information is not controverted, and without delving into the intended substantive motion, this Court is persuaded that the complaint by the interested party to the DCI is not frivolous or hopeless and that the complaint raised calls for investigations into the matter where, a person whom the applicant advocate claims swore an affidavit in support of an application for setting aside of judgment in a civil suit appears to have been long dead.
46. The applicant and his associates have been summoned to shed light on the allegations of forgery and perjury. Recording a statement is not the same as incriminating self. The Police have a duty to investigate complaints filed by members of the public or on their own motion and in the first instance and instead of pouncing on the applicant and his associates with warrants of arrest, they have issued summons. The applicant and his associates are not even accused persons yet. They are simply persons of interest and they are not bound to say anything that may be used against them in the course of the investigations.
47. The applicant claims that he is not bound to answer to those summonses and that he cannot give out documents which he is holding for his client because of the fiduciary relationship. However, it is the same client who is said to be dead and a death certificate and burial permit together with police abstract of the accident in which he is said to have died have been exhibited and there is no contrary evidence at this stage.
48. In view of the above material placed before this court, I find no scintilla of evidence of violation or threat of the applicant's rights guaranteed under *the Constitution*, by the IG or DCI and neither do I find any semblance of abuse of power or authority by the investigative agencies.
49. In *Paul Ng'ang'a Nyaga v Attorney General & 3 Others* [2013] eKLR, it was held that:
- “... this court can only interfere with and interrogate the acts of other constitutional bodies if there is sufficient evidence that they have acted in contravention of *the Constitution*.”
50. Further, in *Leonard Otieno v Airtel Kenya Limited* [2018] eKLR, the Court further held that:
- “It is a fundamental principle of law that a litigant bears the burden (or onus) of proof in respect of the propositions he asserts to prove his claim. Decisions on violation of constitutional rights should not and must not be made in a factual vacuum. To attempt to do so would trivialize *the Constitution* and inevitably result in ill-considered opinions. The presentation of clear evidence in support of violation of constitutional rights is not a mere technicality; rather, it is essential to a proper consideration of constitutional issues.”



51. As was stated in Republic v Directorate of Criminal Investigations & another; Omumani (Exparte Applicant) (Judicial Review Application E160 of 2024) [2025] KEHC 4307 (KLR) (Judicial Review) (1 April 2025) (Judgment), the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, the National Police Service through the Directorate of Criminal Investigations and its officers draw their authority to investigate from Article 245 of *the Constitution* which stipulates, inter alia that:

245.

- (4) The Cabinet secretary responsible for police services may lawfully give a direction to the Inspector General with respect to any matter of policy for the National Police Service, but no person may give a direction to the Inspector-General with respect to—
  - (a) the investigation of any particular offence or offences;
  - (b) the enforcement of the law against any particular person or persons; or
  - (c) the employment, assignment, promotion, suspension or dismissal of any member of the National Police Service.
- (5) Any direction given to the Inspector-General by the Cabinet secretary responsible for police services under clause (4), or any direction given to the Inspector-General by the Director of Public Prosecutions under Article 157(4), shall be in writing.

52. The said agencies also draw their powers and functions from Section 35 of the *National Police Service Act*. Under Sections 24 and 35 of the *National Police Service Act*, 2013, the functions of the police include undertaking investigations, apprehending offenders as well as detecting and preventing crime. In the exercise of its powers of investigation and arrest, the Inspector General and the DCI are functionally independent and can only take directions to investigate from the 3<sup>rd</sup> Respondent, the DPP.

53. The above position is amplified by the decision of the Court of Appeal in Lalchand Fulchand Shah v Investments & Mortgages Bank Limited & 5 others [2018] eKLR citing the Supreme Court of India in its decision in State of Maharashtra & Others v Arun Gulab & Others, Criminal Appeal No. 590 of 2007, where the Court stated:

“The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the Court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the F.I.R./Complaint, unless the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion. The extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction to the Court to act according to its whims or caprice. However, the Court, under its inherent powers, can neither intervene at an uncalled-for stage nor can it soft-pedal the course of justice at a crucial stage of investigation/proceedings. The provisions of Articles 226, 227 of *the Constitution* of India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter called as “Cr.P.C.”) are a device to advance justice and not to frustrate it. The power of judicial review is discretionary; however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that esteem of administration of justice remains clean and pure. However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers.”



54. Similarly, in *Bernard Mwikya Mulinge v Director of Public Prosecutions & 3 others* [2019] eKLR, the High Court, Odunga J (as he then was) expressed himself as follows:

“As has been held time and time again, the Court ought not to usurp the Constitutional mandate of the Director of Public Prosecutions (DPP) to investigate and undertake prosecution in the exercise of the discretion conferred upon that once under Article 157 of *the Constitution*. The mere fact therefore that the intended or ongoing criminal proceedings are in all likelihood bound to fail, is not ipso facto a ground for halting those proceedings by way of judicial review since judicial review proceedings are not concerned with the merits but with the decision-making process. An applicant who alleges that he or she has a good defence in the criminal process ought to ventilate that defence before the trial court and ought not to invoke the same to seek the halting of criminal proceedings undertaken bona fides since judicial review court is not the correct forum where the defences available in a criminal case ought to be minutely examined and a determination made thereon...”

55. Additionally, in *Kipoki Oreu Tasur v Inspector General of Police & 5 Others* [2014] eKLR the Court stated that:

“The criminal justice system is a critical pillar of our society. It is underpinned by *the Constitution*, and its proper functioning is at the core of the rule of law and administration of justice. It is imperative, in order to strengthen the rule of law and good order in society, that it be allowed to function as it should, with no interference from any quarter, or restraint from the superior Courts, except in the clearest of circumstances in which violation of the fundamental rights of individuals facing trial is demonstrated...”

56. In *Republic v Commissioner of Police and Another ex parte Michael Monari & Another* [2012] eKLR the Court held as follows and ai concur with all the a holdings herein cited that:

“... the police have a duty to investigate on any complaint once a complaint is made. Indeed, the police would be failing in their constitutional mandate to detect and prevent crime. The police only need to establish reasonable suspicion before preferring charges. The rest is left to the trial court...As long as the prosecution and those charged with the responsibility of making the decisions to charge act in a reasonable manner, the High Court would be reluctant to intervene...”

57. The above decisions reiterate the Respondents’ duty to conduct investigations into complaints and subsequently, if there is enough evidence, to charge the person accused of the offence. It is this court’s humble opinion that the 1<sup>st</sup> and 2<sup>nd</sup> respondents in summoning the Applicant and his associates in connection with the alleged forgery and perjury were acting within their constitutional and statutory mandates.

58. In judicial review applications, the applicant is expected to place before the court all the evidence that he intends to rely on at the substantive stage, when applying for leave. This evidence availed at the leave stage, is what the court relies on to determine whether a prima facie arguable case has been established, without even delving deep into the substance of the intended substantive motion.

59. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents summoned the Applicant and his associates to the DCI offices and this was obviously an opportunity for them to respond to the allegations or complaint raised by the interested party/ complainant. Although the applicant claims that the DCI should investigate, and even seeks mandamus order to compel investigations, the DCI in issuing summons is indeed for purposes of



investigations into the complaint and in doing so, is expected to question all persons of interest and in my view, the applicant and his associate's failure to cooperate hinders the process of investigating into the allegations of forgery and perjury. Further, the proper administration of justice demands that the police be allowed to investigate allegations and reach a determination as to whether there is any culpability and on who.

60. In the case of Republic v Nairobi City County & another Ex parte Hema Virendra Kashyap [2016] KEHC 1089 (KLR) the court observed as follows:

“In Republic v Judicial Service Commission Exparte Pareno [2004] 1 KLR 203-209, the court was categorical and I agree that:

“Judicial Review orders are discretionary and are not guaranteed and hence a court may refuse to grant them even where the requisite grounds exist since the court has to weigh one thing against the other and see whether or not the remedy is the most efficacious in the circumstances obtaining and since the discretion of the court is a judicial one, it must be exercised on the evidence of sound legal principles....”

Although this court is alive to the fact that Judicial Review remedies are now anchored in *the Constitution* at Article 47 and the provisions of the *Fair Administrative Action Act*, 2015, the court has not been shown how and what specific the provisions of *the Constitution* and of the *Fair Administrative Action Act* have been breached in se charging the exparte applicant.”

61. In this case, the Applicant has not demonstrated that the ongoing investigations are driven by malice, bad faith or ulterior motives. On the contrary, the interested party complainant has shown that the investigations following her complaint is following a genuine complaint lodged by the Interested Party and therefore the 1<sup>st</sup> and 2<sup>nd</sup> respondents are conducting the investigations lawfully.
62. Therefore, from the material placed before this court, and considering the interested party's complaint, I find that the applicant has not shown that he has a prima facie arguable case, to warrant leave to apply. In my view, the leave if granted in this case will be a waste of judicial time and resources since all that the police are doing is to investigate the complaint lodged by the interested party and in doing so, they must be allowed to question the suspects in the alleged forgery and perjury. That in itself has nothing to do with overreach on the part of the police investigators. There is no evidence of bad faith or harassment of the applicant and his associates and neither is there any evidence at this stage that the police are asking for documents that may contain confidential information which is privileged between advocate and client.
63. I find nothing in the conduct of the respondents that is akin to or demonstrative of illegality, irrationality or procedural impropriety or breach or threatened breach of the applicant's constitutionally guaranteed rights.
64. On the part of the DPP, he has not yet received any file from the 1<sup>st</sup> and 2<sup>nd</sup> respondents for action and therefore I agree with the DPP's contention that the application is premature against the DPP.
65. In the end, I find and hold that the applicant has failed to establish an arguable case to warrant this Court's intervention and investigation at the substantive stage. I dismiss the application for leave to apply.
66. On stay, the court having dismissed the prayer for leave upon which stay would be anchored, I find the stay sought cannot be granted. The prayer for stay is declined and dismissed.
67. I make no orders as to costs.



68. This file is closed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 2<sup>ND</sup> DAY OF MARCH, 2026**

**R.E. ABURILI**

**JUDGE**

