

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 13<sup>th</sup> March, 2024

#### Afternoon Sitting

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

*[The Speaker (Hon. Kingi) in the Chair]*

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Hon. Senators, I am informed that we now have quorum. Senator for Nandi County, kindly, take your seat.

*(Sen. Cherarkey took his seat)*

Clerk, proceed to the call the first Order.

#### COMMUNICATION FROM THE CHAIR

#### SUSPENSION OF THE SITTING

**The Speaker** (Hon. Kingi): Sen. Mandago and Sen. Tabitha Mutinda, kindly, take your seats so that I can make this Communication.

*(Sen. Mandago and Sen. Tabitha Mutinda took their seats)*

Hon. Senators at the rise of the House, after the morning sitting, I had indeed indicated that I was going to deliver my ruling this afternoon. The ruling is not ready yet, it is being typed. Therefore, I invoke Standing Order No.1 to suspend the sitting for half an hour, to allow the ruling to be typed. Once we reconvene, I will be in a position to deliver that ruling.

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As you may have noticed, we cannot proceed unless we dispense with the matters that had been raised in the form of preliminary objections.

Hon. Senators, kindly, be upstanding. This sitting is suspended for half-an-hour. We shall reconvene after that time.

*(The House was temporarily suspended at 2.40 p.m.)*

*(The House resumed at 3:28 p.m.)*

**The Speaker** (Hon. Kingi): Order, Hon. Senators, welcome back. Clerk, kindly, proceed to call the first Order.

### CONSIDERED RULING

#### PRELIMINARY OBJECTIONS IN THE PROPOSED REMOVAL FROM OFFICE OF THE DEPUTY GOVERNOR OF KISII COUNTY

Hon. Senators, ladies and gentlemen, in the morning sitting today, Wednesday, 13<sup>th</sup> March, 2024-

*(Sen. Miraj consulted loudly)*

Sen. Miraj, I want to be heard in silence.

In the course of the opening statements of the parties in the matter of the proposed removal from office, by impeachment, of Hon. (Dr.) Robert Onsare Monda, the Deputy Governor of Kisii County, a number of preliminary issues arose.

For the County Assembly, the Counsel raised the following matters-

(a) A request pursuant to Rule 10 of the Rules of Procedure when considering the proposed removal of a governor in plenary as contained in the Third Schedule to the Senate Standing Orders.

(i) That Mr. David Haggai Oyagi, the Acting Director of Enforcement and Compliance County Government of Kisii, be summoned to appear and give evidence before the Senate, in particular to produce his letter of appointment and confirm if the persons who are said to be working in the Deputy Governor's home are officials in the county.

(ii) A preliminary objection to certain paragraphs contained in the bundle of documents submitted by the Deputy Governor and a request that they be expunged from the record on the ground that they are irrelevant to the current proceedings as they are in an answer to allegations or charges that were not made by the county assembly.

Hon. Senators, for the Deputy Governor, a preliminary objection was raised on the basis of Rule 20 to certain paragraphs contained in the bundle of documents of the county assembly, on the basis that these paragraphs, among them, paragraphs 14,22,23,24 and 25, were introducing new evidence and were not permissible.

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The counsel for the Deputy Governor urged that everything not communicated with the County Assembly, in its transmittal letter dated 1<sup>st</sup> March, 2024, be expunged from the record.

Counsel for the Deputy Governor also objected to the summoning of Mr. Haggai Oyagi as this would violate the Deputy Governor's right to a fair hearing as enshrined in Article 50 of the Constitution.

The Defense of the Deputy Governor also raised a preliminary objection to the effect that the impeachment proceedings at the county assembly were conducted outside the timelines provided for in the County Governments Act and Standing Orders of Kisii County Assembly and were therefore fatally incompetent.

Hon. Senators, ladies and gentlemen, the final matter which arose and which this ruling will address was the matter of the appearance in the defense team of the Deputy Governor of Hon. Sylvanus Osoro, a Member of Parliament (MP) serving in the National Assembly, who is also the Majority Whip.

Rule 30 of the Rules of Procedure when considering the proposed removal of a governor in plenary as contained in the Third Schedule to the Senate Standing Orders provides as follows-

“Where particular question or matter including but not limited to questions of evidence, materiality, relevance, competence or admissibility of evidence and any questions consequential or incidental thereto, no provision has been made in the Standing Orders or in these Rules, the Speaker of the Senate shall rule on the question or matter and the ruling of the Speaker shall be final.”

As rightfully pointed out by Sen. Sifuna, Rule 30 applies in circumstances where no provision has been made in the Standing Orders or these Rules. Where the Standing Orders and the Rules make provisions, naturally those provisions apply.

Hon. Senators, ladies and gentlemen, as you will be aware the timelines provided for the disposal of these impeachment proceedings are tight. As you are also aware, the Senate while conducting the impeachment process is sitting as a tribunal in a *quasi-judicial* capacity. Article 159(2) of the Constitution requires that in exercising judicial authority, courts and tribunals be guided by certain principles, among them that justice be administered without undue delay or undue regard to procedural technicalities. It also requires that the purposes and principles of the Constitution be protected and promoted.

Additionally, the Constitution under Article 259 requires interpretation of the Constitution that promotes its purpose, values and principles, that advances the rule of law and contributes to good governance.

Hon. Senators, applying the Constitution, the County Governments Act, the Senate Standing Orders and the applicable rules, I rule as follows on the matters raised-

(1) On the request for the summoning of Mr. David Haggai Oyagi, the Acting Director of Enforcement and Compliance County Government of Kisii pursuant to Rule 10, the same is permissible and is hereby allowed. With the caveat under Rule 20, that his evidence can only relate to the charges that were the basis of impeachment as read to the Deputy Governor. This is in recognition of the right to a fair trial that the Deputy Governor enjoys under Article 50 of the Constitution.

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Directions are hereby given to the Office of the Clerk to immediately issue summons and facilitate the appearance of Mr. Oyagi in the Senate tomorrow, Thursday, 14<sup>th</sup> March, 2024 at 2.00 p.m. The necessary adjustment to the proceedings shall be made to facilitate this.

(2) On the Preliminary objection to certain paragraphs contained in the bundle of documents submitted by the Deputy Governor and the request that they be expunged from the record on the grounds they are irrelevant to the current proceedings as they are in answer to allegations or charges that were not made by the county assembly, the same be disallowed as no prejudice to the County Assembly has been shown.

The Senate is competent enough and will make a determination on the relevance of any evidence adduced before it.

(3) For similar reasons, the preliminary objections raised on behalf of the Deputy Governor that certain paragraphs in the bundle of the documents with the County Assembly be expunged on the ground they introduce new evidence is disallowed on the basis that the objection of necessity requires evidence to be adduced and its support or rebutted. This can best be achieved in the course of the hearing. I therefore rule that this objection be subsumed and taken up by the defence in the course of the presentation of the case of the Deputy Governor.

On the objection of counsel of the Deputy Governor, that the proceedings at the County Assembly were conducted outside of the timelines provided for in the County Governments Act and the Standing Order of Kisii County Assembly, we are therefore fatally incompetent-

I also rule that this is a matter of fact requiring the adducing of evidence. It will best be determined by hearing both parties and entertaining evidence that they have in respect thereof. This preliminary objection is accordingly disallowed at this stage.

Finally, there is the matter of the appearance for the Deputy Governor by Hon. Silvanus Osoro, MP, serving in the National Assembly and who is also the Majority Whip in the National Assembly. It is recognized and provided for in Standing Order No.80(3) of the Senate Standing Orders that the Governor has a right to appear and be represented before the Senate or a Special Committee. This right is recognized under Article 50 of the Constitution. It is not in dispute that Hon. Osoro is an MP and a State officer in terms of Article 260 of the Constitution of Kenya 2010

Pursuant to Article 75(1) of the Constitution-

“A State officer is required to behave, whether in public or official life, in private life, or association with other persons in a manner that avoids-

- (a) any conflict between personal interest and public or official duties;
- (b) compromising any public or official interest in favor of a personal interest; or
- (c) demeaning the office that the officer holds.”

In this respect, therefore, it is also useful to cite the well-known principle that justice must not only be done, but should also be seen to be done.

The attention was drawn to the Senate and it can properly take judicial notice of the fact that Hon. Osoro is an MP representing a constituency in Kisii County. He is a

leader both in the county and the national level, holding a senior leadership position in the Parliament of Kenya.

Article 93 of the Constitution states that Parliament consists of the National Assembly and the Senate. Although the National Assembly and the Senate are required to perform their respective functions in accordance with the Constitution, it is the role of Parliament to protect the Constitution and promote democratic governance of the Republic.

Roles of legislation, representation and oversight belong to Parliament. It would not be correct to say, as we were urged to find, that the mandates of the Senate and the National Assembly are so distinct that the affairs of county governments and county officials will fall entirely outside the jurisdiction and oversight of the National Assembly so as to remove a Member of the National Assembly from any possible connection with oversight of county officials.

For this reason, therefore, I find and rule that it does not promote the purposes, values and principles of the Constitution nor contribute to good governance for the Legislature to put itself in the place where one part of the Legislature serves as a judge in matters relating to integrity in public affairs and Members of the other party of same Legislature act as an advocate for the State official parties to the matter.

In the present matter, I also know that the Deputy Governor is represented by other counsel, among them learned counsel Mr. Katwa Kigen, and will not be deprived of his right to legal representation. I, therefore, direct that Hon. Silvanus Ogoro, MP, ceases forthwith to serve as part of the legal team for the Deputy Governor.

*(Applause)*

With these directions, we shall now proceed with the impeachment proceedings.

Clerk, call the next Order.

Hon. Ogoro, you may take part in these proceedings but as a guest of the Senate. In that case, I invite you to the Speaker's Gallery.

*(Applause)*

Clerk, let us go to the next Order.

**HEARING AND DETERMINATION ON THE PROPOSED REMOVAL  
FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ROBERT MONDA, THE  
DEPUTY GOVERNOR OF KISII COUNTY**

PRESENTATION OF THE CASE OF KISII COUNTY ASSEMBLY

**The Speaker** (Hon. Kingi): Hon. Senators, we will now hear evidence from the County Assembly. You have four hours for evidence-in-chief, cross-examination and re-examination.

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**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Speaker, Sir, for that magnanimous ruling. We therefore wish to call our first witness, who happens to be the complainant in this case, one Mr. Dennis Mokaya Misati. I will ask my learned friend, Mr. Mutuma, to lead the witness.

**The Speaker** (Hon. Kingi): Where is your witness, County Assembly?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Speaker, Sir, we have our witness, Mr. Dennis Mokaya.

**The Speaker** (Hon. Kingi): Where is he? Has he disappeared? Have you confirmed his presence?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): He is within the precincts of Parliament.

**The Speaker** (Hon. Kingi): Counsel, just to remind you that your time is running.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Indeed, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): So, as you delay in calling your first witness, just get to know your time is running.

*(The witness for the County Assembly (Mr. Dennis Mokaya) was ushered into the Chamber)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Speaker, Sir, we are now ready with our witness.

**The Speaker** (Hon. Kingi): You may proceed to swear in the witness.

*(The witness for the County Assembly (Mr. Dennis Mokaya) introduced himself and took the Oath)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Good afternoon, Mr. Mokaya?

**Mr. Dennis Mokaya**: Good afternoon to you.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Kindly state your full name for the record.

**Mr. Dennis Mokaya Misati**: My name is Dennis Mokaya Misati.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which county do you come from?

**Mr. Dennis Mokaya Misati**: I come from Nyamira County.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Are you the complainant in this Senate, touching on matters of impeachment of the Deputy Governor of Kisii County?

**Mr. Dennis Mokaya Misati**: Yes, I am.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you recall if you swore an affidavit in support of your allegation? Confirm whether it is the one

appearing at Page 248 of the County Assembly's bundle of documents? Can you confirm that?

**Mr. Dennis Mokaya:** Yes, I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): That is your affidavit?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you want to abide by all the contents appearing in that affidavit and submit them as evidence before this House?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Now, very briefly, Mr. Mokaya, you have made certain allegations against the Deputy Governor that led to his impeachment.

**Mr. Dennis Mokaya Misati:** Sorry?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am putting it to you that you made certain allegations against the Deputy Governor of Kisii that led to his impeachment. Is that correct?

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I want to refer you to a letter that appears at Page one of the bundle of documents of the County Assembly of Kisii. Can you confirm whether that---

**The Speaker** (Hon. Kingi): Clerk, could the microphones be a bit louder so that we can hear both the counsel and the witness?

Proceed, counsel.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Speaker, Sir. Kindly, confirm that there is a letter appearing at Page 1---

**The Speaker** (Hon. Kingi): Counsel, as you lead your witness through evidence-in-chief, if you refer to any document, be specific on the volume and the page so that Senators can follow.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Speaker, Sir. I am referring to Volume 1 of the County Assembly's document at page 1.

Mr. Dennis Mokaya, is that your statement?

**Mr. Dennis Mokaya Misati:** Yes, it is.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Does it bear your signature at the end on page 5?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you wish to abide by the contents of that statement?

**Mr. Dennis Mokaya Misati:** Yes, I do.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, very briefly, your allegation touches on the issue of bribery directed to the Deputy Governor of Kisii, whereby you allege that you issued some money to him with a promise to get a job position. Is that your evidence before this Senate?

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**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Mokaya tell us what position were you interested in at the County Government of Kisii.

**Mr. Dennis Mokaya Misati:** I applied for the position of commercial manager.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Commercial manager?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you have the qualifications for that position?

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What is your professional background?

**Mr. Dennis Mokaya Misati:** I am a graduate with a Bachelor of Commerce, majoring in accounting.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You are an accountant by profession?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How did you come to know about that position that was advertised?

**Mr. Dennis Mokaya Misati:** The position was brought to my attention by my father who told me there was an advertisement and asked me to go ahead and submit an application.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What is the name of your father?

**Mr. Dennis Mokaya Misati:** Joseph Dowell Misati.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Joseph Misati?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You are aware that your father is a witness appearing for the Deputy Governor, correct?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, your father brought to your attention the vacancy at Gusii Water and Sanitation Company (GWASCO) Limited. Is that right?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What did your father tell you?

**Mr. Dennis Mokaya Misati:** He told me to look at the website and do an application.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When was that?

**Mr. Dennis Mokaya Misati:** It was around mid April.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Did you apply for that vacancy?



**Mr. Dennis Mokaya Misati:** Yes. I went to their website, did the application, attached all the documents and awaited for any communication.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to point to hon. Senators the advertisement that was done by Gusii Water and Sanitation Company (GWASCO)? At what page? Can you look at Page No.266 and confirm whether that is the advertisement you are talking about?

Hon. Senators, again, I am referring to Volume one of the County Assembly's bundle of documents at Page No.266. Can you confirm that that was the advertisement?

**Mr. Dennis Mokaya Misati:** Yes, on Page No.266.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When your father approached you and advised you to apply for that vacancy, did he tell you that he had made any arrangements or what was his advice to you in respect to that position?

**Mr. Dennis Mokaya Misati:** He told me to make an application for the job then he will follow it up with the Deputy Governor.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When you say follow up, what do you mean? What kind of follow up did he talk to you about? Was that conversation candid? If it was, kindly, tell the House specifically what your father told you the nature of the follow up would be.

**Mr. Dennis Mokaya Misati:** By the time I was doing the application, I was still in Nairobi City County doing my business. When I was called for an interview, when I went home, it is when I got to know the whole deal, that the Deputy Governor will help us secure the vacancy.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Okay. How was the Deputy Governor supposed to help in securing the job vacancy?

**Mr. Dennis Mokaya Misati:** I was informed that the Deputy Governor was in good terms with the management and the Chief Executive Officer (CEO) of GWASCO, so it will be easier for any assistance.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have intimated that you were at the time working at your business in Nairobi City County. Kindly tell us what kind of business you were doing in Nairobi City County.

**Mr. Dennis Mokaya Misati:** Personally, I was working with a company called "Together as One", as a marketer. I had a joint business with my wife, which was a salon/*kinyozi*. We were also refilling gas cylinders.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Where was that business situated in Nairobi City County?

**Mr. Dennis Mokaya Misati:** Our business was located in Ruai town, which was opposite Naivas Supermarket.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Who was running that business?

**Mr. Dennis Mokaya Misati:** My wife.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What is the name of your wife?

**Mr. Dennis Mokaya Misati:** Everlyne Nyaboke.

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**The Counsel for the County Assembly** (Mr. Elias Mutuma): Subsequently to that, you did apply for the position?

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do you remember what date you applied for the position?

**Mr. Dennis Mokaya Misati:** It was around mid April.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Were you shortlisted as an applicant?

**Mr. Dennis Mokaya Misati:** Yes, I was shortlisted and invited for an interview.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You were invited for an interview?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Confirm that what appears at Page No.35 of the Deputy Governor's response is a schedule of appearances of shortlisted candidates.

Hon. Senators, the document is labelled as DG, at Page No.35.

**Mr. Dennis Mokaya Misati:** Yes, these were the shortlisted candidates.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Confirm that that is the schedule of appearances for interviewees.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Does your name appear in that schedule of appearance?

**Mr. Dennis Mokaya Misati:** Yes, my name is at number four.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What date were you scheduled to appear?

**Mr. Dennis Mokaya Misati:** It was date 25<sup>th</sup>.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): 25<sup>th</sup> of which month?

**Mr. Dennis Mokaya Misati:** May.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): 25<sup>th</sup> of May?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Now, prior to the shortlisting and subsequent interview, did you make any other arrangements to secure the job opportunity?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Proceed. What kind of arrangement did you make?

**Mr. Dennis Mokaya Misati:** After the interview, I was at home with my parents. The Deputy Governor called my dad and told him that he will help him secure the position. He called us to his residence to make those arrangements.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When you talk about his residence, where is that residence?

**Mr. Dennis Mokaya Misati:** Around Keumbu.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Keumbu is in Kisii County?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Were you part of that meeting between your dad and the Deputy Governor?

**Mr. Dennis Mokaya Misati:** Yes, I was.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Were you privy to the conversation between the Deputy Governor and your father?

**Mr. Dennis Mokaya Misati:** No, we sat at a distance while the Deputy Governor and my dad had a talk.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What did you understand was the outcome of the discussion between the Deputy Governor and your father?

**Mr. Dennis Mokaya Misati:** It was an agreement that we pay the sum of Kshs800,000 for him to enable secure the vacancy.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What was the Kshs800,000 supposed to do? Who were the beneficiaries of the Kshs800,000 as per the conversation between your father and the Deputy Governor?

**Mr. Dennis Mokaya Misati:** Initially, as I had said, he said he was in touch with the CEO of GWASCO, so he was the one who will enable us get the vacancy.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Elias Mutuma: Are you referring to the CEO or the MD of the company?

**Mr. Dennis Mokaya Misati:** The CEO or MD, is that not the same thing?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Correct. Did you have the money at the time? If you had, how had you raised that money?

**Mr. Dennis Mokaya Misati:** At the time of visiting, we were aware he will demand some amount. On agreeing on the amount that we will submit, we had raised the money earlier. I was operating a salon at Ruai so after the interview, it was guaranteed that the Deputy Governor, being in his position, was able to get us the job.

My wife and I sold the salon, which we were operating at Ruai. We sold it to Mr. Peter Mungai at a sum of Kshs500,000, which is an agreement that we sold the salon.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Is that the agreement appearing at Page No.256 of the County Assembly's bundle of documents?

Hon. Senators, I am referring to the bundle of documents from the County Assembly, Volume 1 at Page No.256.

Confirm indeed that that is the agreement between you, your wife on the one hand and the purchaser of the salon.

**Mr. Dennis Mokaya Misati:** Yes, this is the agreement.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Dennis, was your wife part of this agreement? Did she concur with your sentiments and plan to sell the business so that you can secure a job opportunity?

**Mr. Dennis Mokaya Misati:** At first, my wife was not in agreement. This is because we had lived in Nairobi City County for the period of 13 years and this was our

lifetime savings for that period. She was not of the idea that we sell the salon, but since this was an opportunity for us to shape our life, I had to plead with her so that she agrees we use the money for the occasion.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Subsequently, she agreed for you to sell the salon?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When you sold the salon, do you remember what date that was?

**Mr. Dennis Mokaya Misati:** Yes, we wrote the agreement on date 25<sup>th</sup>. He paid us in two instalments. The first instalment was Kshs200,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Kindly, look at the agreement and confirm the actual dates. Was it 25<sup>th</sup> or 20<sup>th</sup>? Confirm from the agreement.

**Mr. Dennis Mokaya Misati:** It is 25<sup>th</sup>.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Confirm from the agreement. There is a date written beneath.

**Mr. Dennis Mokaya Misati:** The agreement was done on the 20<sup>th</sup>, but the first payment was made on 25<sup>th</sup>.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, the agreement was done on 20<sup>th</sup>?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): The first instalment was to be paid on 25<sup>th</sup> of April?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Was that before or after the shortlisting?

**Mr. Dennis Mokaya Misati:** After the shortlisting.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What did you do with the money immediately you got it from the buyer of the salon?

**Mr. Dennis Mokaya Misati:** He gave us the money in cash. We carried it money home and gave it to our parents to keep it safe for us.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Dennis Mokaya, are you an accountant?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you saying that you gave your parents money to keep for you?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That does not sound very credible. Why would you feel the need to give your parents money to keep for you?

**Mr. Dennis Mokaya Misati:** We were doing a clearance at that time. We were selling all our items from Nairobi to relocate to our rural home. We even went to an extent of borrowing from these mobile banking and from our banks.

Since my wife was the one operating the business, we were doing most of the transactions through her phone number. So, we even went to an extent of borrowing money from Kenya Commercial Bank (KCB) and Mshwari so that we could raise the full amount.

So, we felt that it is better it be kept by our parents because if we kept it, we could have used the money again. It would not have served the right purpose.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, you gave it to your parents because you felt you would have utilised the amount?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. What do your parents do for a living? When you talk about your parents, kindly talk about your father and your mother.

**Mr. Dennis Mokaya Misati:** My father is a retired civil servant. He was working in the veterinary. However, he has some business at home and operates an M-pesa shop with a small retail shop.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): He is operating an M-pesa shop?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Was the money subsequently given to the Deputy Governor?

**Mr. Dennis Mokaya Misati:** Yes, when the Deputy Governor requested for the Kshs800,000, on the 28<sup>th</sup>, we gave him Kshs500,000---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): 28<sup>th</sup> of which month?

**Mr. Dennis Mokaya Misati:** 28<sup>th</sup> May.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): 28<sup>th</sup> of May?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Was that the year 2023?

**Mr. Dennis Mokaya Misati:** Yes, last year.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Where was that money handed over?

**Mr. Dennis Mokaya Misati:** My dad did a transaction of Kshs251,000 from his accounts to the Deputy Governor's M-pesa. Then, my mother sent me Kshs250,000 to my M-pesa account so that I could transfer the same to the Deputy Governor. So, I transferred a sum of Kshs249,000 because of some transaction costs.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Kindly, go to page 255 of the County Assembly's bundle of documents.

Hon. Senators, I am referring to volume one again at page 255. I am looking at the second last transaction contained at page 255.

Mr. Dennis, tell us about that transaction. Where was that money being sent to, from who and the time?

**Mr. Dennis Mokaya Misati:** This is my M-pesa statement.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Kindly read it out.

**Mr. Dennis Mokaya Misati:** My M-pesa number is 0725487300. After receiving a transaction of Kshs250,000 from my mother, Annah Misati---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do you have proof that you first received money from you mother?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Kindly, take us there. Look at the next page.

Hon. Senators, the next page is not paginated but if you flip, you will go to the next page. That is the page after 255.

Mr. Dennis, point to the hon. Senators to that transaction where money was sent to your phone from your mother's account.

**Mr. Dennis Mokaya Misati:** The second page of my M-pesa transaction. There is the first transaction which happened at 8.00 p.m., my mother sent me Kshs50,000. Again, at 7.51 p.m., she sent the same amount of Kshs50,000 to make it Kshs100,000. The first transaction at 7.44 p.m. she had sent ----

**The Counsel for the County Assembly** (Mr. Elias Mutuma): A bit slowly. Hon. Senators, I am referring to the fourth, fifth and sixth transactions appearing on that page. So, did you first receive Kshs150,000?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): At what time?

**Mr. Dennis Mokaya Misati:** I received the first transaction at 7.44 p.m.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): From whom?

**Mr. Dennis Mokaya Misati:** From my mother, which was Kshs150,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What is the name of your mother?

**Mr. Dennis Mokaya Misati:** Annah Misati.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): The second transaction?

**Mr. Dennis Mokaya Misati:** It was Kshs50,000 at 7.51 p.m. and then the last transaction from my mother was at 7.51.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Of how much again?

**Mr. Dennis Mokaya Misati:** Kshs50,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Immediately after that, where did you transfer the money to?

**Mr. Dennis Mokaya Misati:** After I had received the full amount of Kshs250,000, I transferred the amount from my M-pesa mobile number to the Deputy Governor's phone number.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How much money did you send to the Deputy Governor's number?

**Mr. Dennis Mokaya Misati:** The first amount that I sent to him was at 8.33 p.m. which was Kshs150,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Confirm the mobile number that you used to send the Deputy Governor through kindly.

**Mr. Dennis Mokaya Misati:** It is not clearly indicated but it ends with ---700.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do you know his number?

**Mr. Dennis Mokaya Misati:** Yes, I had it in my phone.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have quoted that number in your affidavit? We can refresh your memory by looking at the affidavit. It is important for that number to be captured.

**Mr. Dennis Mokaya Misati:** The mobile number that I used to send the amount to Deputy Governor is 0711860700.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Can you repeat that?

**Mr. Dennis Mokaya Misati:** 0711860700.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What was the name that came out after you sent the money?

**Mr. Dennis Mokaya Misati:** The name that came out was Robert Monda.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Were you in the presence of the Deputy Governor all this time or you were away from him?

**Mr. Dennis Mokaya Misati:** We were away from him but in the same premise.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Where is that premise?

**Mr. Dennis Mokaya Misati:** His home.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How many transactions did you make to the Deputy Governor in total from your M-pesa?

**Mr. Dennis Mokaya Misati:** It is totalled to Kshs249,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Confirm that the last transaction to him is the second last transaction appearing at page 255.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Is that from your Mpesa again?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How did he receive the remainder of the amount if any?

**Mr. Dennis Mokaya Misati:** After leaving his residence, we had given him a sum of Kshs500,000. The initial agreement was that we had to pay the Kshs800,000. So, after leaving the place, we agreed that we shall deliver the balance amount the following day which was on a Monday. We went to his place on a Sunday, and the following Monday. We were to deliver the balance which was Kshs300,000 at his office.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Did he receive any other amounts of money from any of the persons you were in the company off on that day?

**Mr. Dennis Mokaya Misati:** He only received the amounts from my father.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to point us to that transaction where your father sent money to the Deputy Governor on the same day?

We are getting there, hon. Senators. On page 65, Volume II of the Deputy Governor's (DG's) response, kindly show us the transaction where your father sent money to the Deputy Governor, appearing at page 65.

**Mr. Dennis Mokaya Misati:** It is on page 65 on the same date of 28<sup>th</sup>, my dad made four transactions. The first one was from a Cooperative Bank Account. This is a joint account between my dad and mum. The first transaction was Kshs70,000. The second one was Kshs70,000, and again, he did a transaction of Kshs70,000. Later, he did another transaction of Kshs41,000. So, it is totaling to Kshs251,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What was the nature of this transaction? It reflects that it is from a bank. How was that payment done from the bank?

**Mr. Dennis Mokaya Misati:** It was done from the bank to the M-pesa account of the Deputy Governor. However, this is a different number from the one I used.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What number is that?

**Mr. Dennis Mokaya Misati:** This number is 0702000220.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Please repeat.

**Mr. Dennis Mokaya Misati:** It is 0702000220.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Who is the registered owner of that number?

**Mr. Dennis Mokaya Misati:** It is registered to the Deputy Governor.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That would total to how much; what you had given him and what your parents sent to the Deputy Governor?

**Mr. Dennis Mokaya Misati:** It is totaling to Kshs500,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Your allegation was that the ask was for Kshs800,000. What happened to the balance?

**Mr. Dennis Mokaya Misati:** We agreed that on the following day, which was on a Monday, we would bring the balance of the Kshs300,000 to his office which is situated at the Gusii Stadium.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Have you had the occasion to look at the response of the Deputy Governor in defense to that specific allegation?

**Mr. Dennis Mokaya Misati:** Not yet.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I want to refer you to the Deputy Governor's response, what he said about why he had received money from you and your father and what he did to it. I want you to look at that response at paragraph 16. The Deputy Governor alleges that your father owed the Deputy Governor some money and that, that money sent from you, your father and mother was towards the payment of that loan. What do you have to say to that line of defense?



**Mr. Dennis Mokaya Misati:** Hon. Speaker, Sir, I can say that this is a lie because if we look at the whole thing, I was included in sending the money to the Deputy Governor. If at all this was a debt that my dad was paying to the Deputy Governor, then if we look at his Cooperative Bank joint account, the account holds more than what I sent.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Let us go back to that account, now that you have raised the issue. How much did your mother and father jointly have as at the time they were sending money to the Deputy Governor and what was the balance after they sent money to the Deputy Governor?

Hon. Senators, we are, again, making reference to the Deputy Governor's response.

**Mr. Dennis Mokaya Misati:** So, after my dad sent the last amount, which was Kshs41,000, his account balance was a balance of Kshs1.3 million.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, your father still had some balance in his account?

**Mr. Dennis Mokaya Misati:** Yes, he had a balance of Kshs1.3 million. Indeed, if he was paying a debt, he could have done the whole transaction at ago.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. I want you to look at that response again. The Deputy Governor of Kisii County alleges that he had loaned your father the amount of Kshs600,000, some of which money had gone towards paying fees for your child. Hon. Senators, I am referring to page E5 of the Deputy Governor's response.

Had you received any money from your father that to your knowledge, was an advance from the Deputy Governor that you paid school fees for your child with and now that day you were refunding?

**Mr. Dennis Mokaya Misati:**No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Have you ever sought any assistance from your parents towards the education of your child?

**Mr. Dennis Mokaya Misati:** Yes. This was after we had given the money to the Deputy Governor. We had sold everything we owned and gone back home. I was not in any financial position thereafter to take my daughter to school.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Dennis, I have perused through the statements and I have seen a number of transactions between your father and the Deputy Governor as late as January 2024 - money flowing from your father to the Deputy Governor, and vice versa. Are you aware why your father would occasionally send money to the Deputy Governor and vice versa? His defense is that they are long-term friends and they used to loan each other money and this was not an isolated case. What do you have to say to that?

**Mr. Dennis Mokaya Misati:** I cannot deny that they are long-term friends; actually it exceeds 30 years. The main transaction between my father and the DG is that my father is one of the officials of a SACCO that he leads at our home.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What is the name of that SACCO?

**Mr. Dennis Mokaya Misati:** It is called Kebobora Women's Group. It is in our locality and he is the Treasurer. On many occasions, the Deputy Governor borrows money from the SACCO through my dad's name, then he refunds with an interest. That is, generally, the business they have been doing.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** On this day, could it be one of such instances where the Deputy Governor had borrowed money and was being refunded by your father?

**Mr. Dennis Mokaya Misati:** No, it is not one of those days. As I stated earlier, if actually, this was the borrowing and lending business, I am not an official of the SACCO. Therefore, I would not be entitled to make any transaction to the Deputy Governor through my mobile phone.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Did you have any other reason to visit the Deputy Governor's home on 28th of May, apart from the business of giving him money for securing the job vacancy? Did you have any other business?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Have you ever been to the Deputy Governor's home at any other time?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What then does your presence mean against the defense of the Deputy Governor that it was a repayment of the loan?

**Mr. Dennis Mokaya Misati:** I was the owner of this whole initiative. I was the one who was looking for employment. So, I was to be there to witness what was going on because this was my money.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Are you aware if the Deputy Governor ever transmitted any money to the target of the bribe?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Who was that target?

**Mr. Dennis Mokaya Misati:** The Director of Gusii Water and Sanitation Company limited (GWASCO)---

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What is the name of the Managing Director of GWASCO?

**Mr. Dennis Mokaya Misati:** Her name is Lucy Wahito.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Kindly look at the document before you. Hon. Senators, I am looking at page 99 of the Deputy Governor's response.

Is there any money sent to that very person, Lucy Wahito, the Managing Director (MD) of Gusii Water and Sanitation Company Limited (GWASCO) on that very day?

**Mr. Dennis Mokaya Misati:** Mr. Speaker, Sir, yes, there is a sum of Kshs100,000.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What time was that money sent?

**Mr. Dennis Mokaya Misati:** It was sent on 28<sup>th</sup> May, 2023, at 9.24 p.m.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What time had you sent the money to the Deputy Governor?

**Mr. Dennis Mokaya Misati:** The first transaction was made at 8.33 p.m.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Then an hour he sends money to the same Lucy, the MD of GWASCO?

**Mr. Dennis Mokaya Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** The very company where you had applied and you were shortlisted for a position?

**Mr. Dennis Mokaya Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** The Deputy Governor says that the money was sent erroneously, but interestingly, to the same person that he was meant to bribe. What do you say about that?

**Mr. Dennis Mokaya Misati:** I do not know what to say, but this was that transaction but I believe this was a bribe so that he could---

**The Counsel for the County Assembly (Mr. Elias Mutuma):** In your previous discussions with the Deputy Governor and your father, were you aware that Lucy Wahito was the person meant to be bribed by the amount of money you were giving?

**Mr. Dennis Mokaya Misati:** Mr. Speaker, Sir, I did not know the name, but I know it was going to be given to the Managing Director who happens to be Lucy Wahito.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Thank you. Did you ever secure that employment at GWASCO?

**Mr. Dennis Mokaya Misati:** No, I did not.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** You did not.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Did you follow up with the Deputy Governor or your father to make an inquiry over the same?

**Mr. Dennis Mokaya Misati:** Yes, Mr. Speaker, Sir, I did. We made constant follow-ups through my father with the Deputy Governor but we did not receive any communication.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Dennis Mokaya Misati, your own biological father and your mother will appear tomorrow before the Senate and they will label you a liar. Why would you want to go against the statement of your own father? Why would your father be lying about the purpose of the money sent to the Deputy Governor?

**Mr. Dennis Mokaya Misati:** Mr. Speaker, Sir, this is my life and that was my money. That was my lifetime savings. If my dad chooses friendship over the truth, then let it be so.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Thank you.

*(The witness broke down and wept)*

**The Speaker** (Hon. Kingi): Are you done with the witness because he is breaking down?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Speaker, Sir, we can pause for 30 seconds. He can recollect himself.

*(A member in the public gallery wailed loudly)*

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, kindly, take care of the situation in the public gallery.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Misati, can we proceed? Kindly tell the hon. Senators about your current relationship with your parents as a result of this?

**Mr. Dennis Mokaya Misati**: Mr. Speaker, Sir, I do not have anything against my parents. The fact is that this was my family's lifetime savings. We had built this business for the last 13 years. This was our opportunity to sell the business and get something that would benefit the family. However, we lost everything. After we lost everything, my parents at home became unsupportive, so we had to leave our home and find somewhere else to start all over again.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How did that affect you and your wife?

**The Speaker** (Hon. Kingi): Counsel, just hold on. What is your intervention, Sen. (Dr.) Khalwale? Senators, just to remind you that you will have an opportunity to engage the witness. I hope that whatever you want to raise has got nothing to do with seeking clarification or asking questions.

**Sen. (Dr.) Khalwale**: Mr. Speaker, Sir, purely on humanitarian grounds, I request that you use Standing Order No.1 to allow the young witness, probably five or 10 minutes maximum to recompose himself. You can see that the witness is completely emotionally eroded.

**The Speaker** (Hon. Kingi): From the Counsel, the witness is doing pretty well and that is why they proceeded, otherwise, that application can only come from the Counsel and not from you, hon. Senator.

Counsel, proceed.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Mr. Speaker, Sir. I urge the witness to gather courage and proceed.

Mr. Misati, how has this ordeal affected your family life; you and your wife?

**Mr. Dennis Mokaya Misati**: Mr. Speaker, Sir, initially, my wife was not in agreement that we sell our family business to relocate to our home. I had to persuade her to agree with me so that we get better after we secure that job. We, therefore, agreed and relocated to our home.

After that, we were disappointed because I did not secure the opportunity. Recruitment was done and people reported for duty. It was very stressful and my wife did not take it easy and she branded me a liar because we lost the family business. At that

time, my wife was expecting, after 12 years of trying. My first born is 13 years old. We had tried for all that period. During that hard time, my wife miscarried---

*(The witness broke down and wept)*

Mr. Speaker, Sir, the whole blame came back to me because, initially, she was not in agreement that we sell the business. We got into much stress and depression. I had to look for a way to sort out this issue. We had to leave home and look elsewhere in order to start all over again.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have also made allegations on threats to your life. Kindly, tell us how that is the case.

**Mr. Dennis Mokaya Misati:** After learning that the appointments were done and there was no job, no vacancy and all my savings were gone, I approached one of my friends. I have been following him on social media since 2022 and he is now an elected Member of County Assembly (MCA) of Ichuni Ward with the intention of inquiring if he could help me secure the money I gave to the Deputy Governor.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Is that the mover of this Motion?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What did the Mover of this Motion advise you to do after you brought this to his attention?

**Mr. Dennis Mokaya Misati:** When I reported to him, he took it as a joke until I provided the documents. He requested for the M-pesa statement showing the transactions and I did give him. He then advised me to make a formal complaint so that he can follow up with the Deputy Governor for my refund. I knew he was doing it so that I could get my refund. I never knew it would reach this far.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): It was not your intention to find yourself at the Senate on the impeachment charges?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Have you ever received your money back?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Have you made any follow-ups in any Government agency to recover your money?

**Mr. Dennis Mokaya Misati:** After leaving home and relocating to Nairobi, I made a complaint at Ethics and Anti-Corruption Commission (EACC) on the same.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Has the EACC summoned anyone in respect to this issue?

**Mr. Dennis Mokaya Misati:** After making the complaint, they summoned the Chief Executive Officer of Gusii Water and Sanitation Company (GWASCO).

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Who is that?

**Mr. Dennis Mokaya Misati:** Ms. Lucy Wahito.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Lucy was summoned by EACC pursuant to your complaint?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you very much.

Mr. Speaker, Sir. I would like to stop at that and yield the witness to my learned friend for cross-examination.

**The Speaker** (Hon. Kingi): Counsel for the Deputy Governor. It is your turn now.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Good afternoon, Mr. Misati.

**Mr. Dennis Mokaya Misati:** Good afternoon.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like to start with a few preliminary issues. From the cross-examination, you have said that you have seen the response by your father and mother.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You see that their position is that they were refunding money they borrowed from the Deputy Governor?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What did you say is your reaction to the point made by your parents that the money was a refund of a loan that had been given to them?

**Mr. Dennis Mokaya Misati:** It is a lie.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are telling the Senate that it is a lie?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, in your affidavit, you admit readily that your father and the Deputy Governor have been friends for many years?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is that a fact?

**Mr. Dennis Mokaya Misati:** It is a fact.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you know whether they were borrowing each other money over the years?

**Mr. Dennis Mokaya Misati:** Yes, they have been borrowing money. I can say that the Deputy Governor has been borrowing money---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Listen to my question.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You admit that indeed, over the years, they have been borrowing each other money?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, it is also true your father and the Deputy Governor have an Agrovet business in Kisii. Is that not it?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Both of them do it separately.

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is not a joint business. Each of them is running their own business. Is that not it?

**Mr. Dennis Mokaya Misati:** There is no business at this date.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Did they use to run?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, sorry about that. It is also true that they use to borrow each other stocks.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. So, your position is that in respect to this specific point that Mr. and Mrs. Misati borrowed money in November/October 2022 is a lie. Having admitted that they borrow each other money, what makes you distinguish this refund of money borrowed in November/October 2022? What distinguishes this exchange?

**Mr. Dennis Mokaya Misati:** My reason is that I was--- as he said they are giving a refund. I was not involved in their transactions. I came from Nairobi to Kisii for the first time after a long period of time. So here comes---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You admit that you do not know what the transactions were?

**Mr. Dennis Mokaya Misati:** The one I sent to the Deputy Governor?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes.

**Mr. Dennis Mokaya Misati:** I know.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us go back to my question. Having admitted that they borrowed each other stock and money, what is it that distinguishes the case of these Kshs500,000 that Mr. and Mrs Misati are saying they borrowed from Dr. Monda in November and were refunding in May, 2023?

**Mr. Dennis Mokaya Misati:** I have never been included all along on their borrowing business. I am in this case.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could the record of the Senate then reflect that--- your point is that you are asking for your money but you did not know whether or not they had borrowed each other in November, 2022?

**Mr. Dennis Mokaya Misati:** Actually, what---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you know whether or not they borrowed each other in November?

**Mr. Dennis Mokaya Misati:** That was not a borrowing.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your position is that they did not borrow each other in November?

**Mr. Dennis Mokaya Misati:** I do not know but at that time---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You do not know. Let us leave it there. I wanted you to confirm whether you can say for a fact that they did not borrow each other or you do not know.

You also say that--- In your affidavit, I have seen quite a number of paragraphs where the communication was between your father on your behalf and the Deputy Governor. Is that not it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you have your affidavit there?

Hon. Members, I am referring to page 17 of the Deputy Governor's bundle. Do you have it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that paragraph five is information you received and it got to you through your father and it was not a direct conversation with the Deputy Governor?

You say in paragraph five that "In early 2023, my father had learned through Deputy Governor of job vacancies with GWASCO". Is that what you have said?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That information came to you through your father. Is that it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Not a personal conversation with the Deputy Governor.

**Mr. Dennis Mokaya Misati:** It was through my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Please let us go to paragraph six. You said that "on 21<sup>st</sup> April, while I was working with a company known as Together As One Finance as a Marketeer, my father brought to my attention", That information came to you through your father. You did not talk with the Deputy Governor.

**Mr. Dennis Mokaya Misati:** It came through my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Let us look at paragraph nine. You said in paragraph nine that, "the Deputy Governor called us to his home within days of being informed by my father about the post and before the interviews were carried out." Can you see that?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That also came through your father, not directly between you and the Governor.

**Mr. Dennis Mokaya Misati:** All the communication was done through my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. I would like you to look at paragraph 11(d) on the next page. Are you at (d)?



**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You said Kshs250,000 was sent to Dr. Monda through my father's Safaricom line. That is also information in the hands of your father, not you personally. Is that not it?

**Mr. Dennis Mokaya Misati:** This was information from my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much. Lastly, in paragraph 17, you said that you informed your father of the intention to report the matter to EACC and your father told Dr. Monda and that Dr. Monda got upset.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Having gone through that, could you confirm that in terms of the whole of these transactions, you have not had a direct conversation between yourself and Dr. Monda and that you tell your father to communicate with Dr. Monda?

**Mr. Dennis Mokaya Misati:** All the communications were done through my dad.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your father?

**Mr. Dennis Mokaya Misati:** Yes. I have never had any direct communication.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Could we also confirm that apart from not having a personal conversation with Dr. Monda, you did not have any telephone conversation with him?

**Mr. Dennis Mokaya Misati:** True.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No telephone or oral conversation? Did you say you have been to Dr. Robert Monda's house only once when you were being led in evidence in June?

**Mr. Dennis Mokaya Misati:** In his office?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In his house.

**Mr. Dennis Mokaya Misati:** We went to his house on the 28<sup>th</sup> ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I understand that. You have said that was the only time you went there?

**Mr. Dennis Mokaya Misati:** That was the first time I went there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What does it mean to say first time? Have you subsequently gone there?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen):: So, it is the only time?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen):: Okay. So it is the only time even as we stand here today?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is also your testimony that on that date of 28<sup>th</sup> when you remitted the sum of Kshs249, 000, Hon. (Dr.) Robert Monda and your father were seated at a distance talking as friends?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Were you separate from them?

**Mr. Dennis Mokaya Misati:** Yes. I was with my other brothers.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How many of them?

**Mr. Dennis Mokaya Misati:** We were with my other three brothers.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you were four brothers. Did you participate in the conversation between hon. (Dr.) Robert Monda and your father? For instance, it was on a Saturday or did you make any contribution? Did you participate in that conversation at all in one way or the other?

**Mr. Dennis Mokaya Misati:** No. I did not.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is your case that the money belongs to you?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is also your admission that you do not know whether your father owed Hon. (Dr.) Robert Monda any money?

**Mr. Dennis Mokaya Misati:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): As you stand here before the Senate, your position is that the money belongs to you. Is that true?

**Mr. Dennis Mokaya Misati:** Yes, that was my money.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Simultaneously, you cannot say for a fact, from where we have just come in cross-examination, that your father, Mr. Joseph Misati, did not owe Hon. (Dr.) Robert Monda any money. You cannot say that.

**Mr. Dennis Mokaya Misati:** If he had, I did not know---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just answer the question I have asked you. You cannot say for a fact whether Joseph and your mom owed Hon. (Dr.) Robert Monda any money. You cannot confirm that.

**Mr. Dennis Mokaya Misati:** I cannot confirm.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you. Let us go to paragraph 10. We will come back to the other paragraphs.

Hon. Members, I am referring to page 18 of the Deputy Governor's bundle paragraph 10. In paragraph 10, you have said "My father and I voluntarily gave him Kshs799,000 an amount meant to secure me a job believing him as Deputy Governor with influence over Gusii Water and Sewerage Company (GWASCO) which is an entity of the county government which he deputizes as head of government. You stand by that statement. Is that true?

**Mr. Dennis Mokaya Misati:** Yes, I do.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): If this was a court, you would be ready to be sentenced? Is that true? You are admitting that you are a criminal?

**Mr. Dennis Mokaya Misati:** I am not admitting---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are saying that I you gave out a bribe. Are you not saying that here?

**Mr. Dennis Mokaya Misati:** I can say that---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On paragraph 10, you are saying you gave out money with the intention of getting a job. Is that what you are saying? A bribe with an intention of getting a job?

**Mr. Dennis Mokaya Misati:** I only succumbed to pressure from his office.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, your state of mind aside, all I am saying is that you are admitting before this Senate that as you stand, testify and complain, you are criminal. Is that not true?

**Mr. Dennis Mokaya Misati:** I am not.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you not said that you are a criminal and that you gave out a bribe or do you think giving a bribe is not a crime?

**Mr. Dennis Mokaya Misati:** At first, they called it a facilitation fee, others call it 'tea'. I do not know. Now you are calling it a bribe.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Who complained to Hon. Siocha that he bribed and did not get a job?

**Mr. Dennis Mokaya Misati:** I told Hon. Siocha I gave---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, I want to move on from this point. Are you now then telling this Senate, it was not a bribe but a facilitation fee? Are you re-baptizing the name of this Kshs799,000?

**Mr. Dennis Mokaya Misati:** That is how we call it.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It was a facilitation, not a bribe?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your hope was and it was somehow a gamble that if I give out Kshs799, 000, I will get a job. That was the state of your thinking based on what you brought to this Senate.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You were gambling that at least this Kshs799, 000 will fetch me a job. Is that not true?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I said you were gambling with getting a job? You were hoping to get a job?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): May I ask you as a general proposition, is it true that you by nature engage in gambling?

**Mr. Dennis Mokaya Misati:** What do you mean?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That you are a gambler.

**Mr. Dennis Mokaya Misati:** That is not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Say that again. You swore to say the truth? Is that not it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you swearing that by nature, you are not a gambler? You do not bet?

**Mr. Dennis Mokaya Misati:** Actually, betting is a ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you gamble? You gambled on the job and you are a generally a gambler. Is that not it?

Hon. Members, I would like to go to pages 21 and 22 of the Deputy Governor's bundle. Do you have your M-Pesa record there?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like you to look at the first page. Your M-Pesa was obtained on the 29<sup>th</sup> of January, 2024. Can you see that?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like you to look at the entry of the 28<sup>th</sup> May, 2023. It should be the fourth last entry from the bottom. Are you there? Do you want me to help you?

**Mr. Dennis Mokaya Misati:** Yes, it is there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is true that in that entry you had about Kshs400 and you spent about Kshs100 in gambling. Is that true?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Let us go to page two. I would like you to look at the entry of your transaction on 28<sup>th</sup> May. The same day we are talking about at noon. Are you there?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At that time, you had Kshs300 and you spent Kshs200 in gambling. Is that not it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then at 10:21 on the same 28<sup>th</sup> May; the same day we are talking about money being sent to Hon. (Dr.) Robert Monda, you did not have any money. You had only Kshs34. However, somehow you spent Kshs100 on gambling.

Is that not it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then the day before at 18:51 hours, you spent another Kshs100 and left a balance of Kshs34 in your account. I do not want to go through all this because of time. You, however, agree that generally, your statement shows you engage in gambling.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The same way you were gambling with the Hon. (Dr.) Robert Monda at the job?

**Mr. Dennis Mokaya Misati:** Yes.

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Thank you. I want to move on to the big question here. Whose money was it? Your position is it is your money but you do not know whether Mr. and Mrs. Joseph Misati owed the Deputy Governor money.

I would like us to discuss on the face of what you came with to the Assembly and subsequently to this Senate.

It is true from what my colleague Mr. Mutuma took you through that you confirm that money came from your mother's, Mrs. Ann Misati, M-Pesa account to your account. Is that not it?

**Mr. Dennis Mokaya Misati:** True.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, let us start. You received money from---

Hon. Senators, that M-pesa statement is on pages 75 to 88 but with particular reference to the entries on page 87. Which bundle are you using?

**Mr. Dennis Mokaya Misati:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let me see the bundle you are using. Thank you very much. Are you on page 87?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that the entry of 28<sup>th</sup> May at 20:01, you received Kshs50,000 from Mrs. Misati who is your mum?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At 19:51, you received another Kshs50,000 from her?

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Lastly, at 19:44, you received Kshs159,000 from her?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. These are exactly the amounts that you remitted to Dr. Monda, less Kshs1,000?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Why did you keep Kshs1,000?

**Mr. Dennis Mokaya Misati:** That was for transaction costs.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. So, you kept Kshs1,000 for transaction costs?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, your mum sent you Kshs250,000. You remitted to Dr. Monda only Kshs249,000 and kept Kshs1,000, is that not so?

**Mr. Dennis Mokaya Misati:** Actually, it was not Kshs1,000. After the transaction cost, I do not know how much remained in the account.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Do you know how much it was?

**Mr. Dennis Mokaya Misati:** It was less by Kshs1,000, but I do not know how much remained in the account.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** The question I have for you is this, did you call your mum to request her to withhold Kshs1,000?

**Mr. Dennis Mokaya Misati:** Sorry?

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You withheld Kshs1,000 from her, is that not the case?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did you request her to withhold that Kshs1,000? Did she authorize you to keep that Kshs1,000?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did your father authorize you to keep that Kshs1,000?

**Mr. Dennis Mokaya Misati:** My dad told me to send Kshs249,000. It was my father because we were with him.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Okay. It is because you needed to cushion yourself against the expenses of that transaction, is that not the case?

**Mr. Dennis Mokaya Misati:** That was the---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** He did not want you to incur an expense. You are saying he told you to keep Kshs1,000, and send Kshs249,000. Was that so?

**Mr. Dennis Mokaya Misati:** This was---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** No, we must go through this. He did not want you to spend your money. So, he told you to send Kshs249,000 and keep Kshs1,000, being the charges that you would incur for passing on this money, is it not so?

**Mr. Dennis Mokaya Misati:** That is not true.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What is the true position?

**Mr. Dennis Mokaya Misati:** Actually, my dad did the first transactions to the Deputy Governor. He had transacted a total Kshs100,000---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Let us not go back so that we do not spend too much time. Why were you keeping Kshs1,000? Let me just put it like that.

**Mr. Dennis Mokaya Misati:** Because my dad had sent him Kshs251,000 with an extra Kshs1,000. So, I sent Kshs249,000 to make it a total of Kshs500,000.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** If that money was yours, why would your father be concerned about whether or not you would spend money to remit the amount? Why would he bother? Is it not because it was his money and he did not want you to go at a loss?

**Mr. Dennis Mokaya Misati:** It was because he wanted to make the full payment of Kshs500,000.

**Mr. Katwa Kigen:** The reason is that your father did not want you to spend money on his business. Is that not the case?

**Mr. Dennis Mokaya Misati:** That is not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. I will move from there. So, your position is that the money that your mum sent was your money. Is that your position?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Without spending so much time on that point, could you confirm that you have not given us any paper trail to show that the money was from you to your mum's M-pesa account?

**Mr. Dennis Mokaya Misati:** I gave the full amount of Kshs800,000---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No, just answer my question. My question is, we have traced how money came from your mum to your account and then to Dr. Monda. Is it not so?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have shown us the EACC documents and so on and so forth. In the same way that you are so diligent, you have not given us, with the same diligence, documents showing that on a given date, you remitted a sum of Kshs250,000 to your mum, which is a basis for you to say that money was yours and your mum was just a custodian.

**Mr. Dennis Mokaya Misati:** There were no documents.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you. In your statement, I want you to go to page 19, paragraph 11(d). Are you there?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have said that Kshs250,000 was remitted using your father's Safaricom line. Is it not so?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, let us start from there. This is mistaken and not accurate. Is this correct?

**Mr. Dennis Mokaya Misati:** This is not correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is wrong?

**Mr. Dennis Mokaya Misati:** Yes.

**Mr. Katwa Kigen:** When did you realize it is wrong?

**Mr. Dennis Mokaya Misati:** The transaction that my dad did---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No. You went to see Hon. Siocha and told him---

**Mr. Dennis Mokaya Misati:** That is not true; those are not the allegations. Let me explain.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay.

**Mr. Dennis Mokaya Misati:** When we were doing these transactions---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I do not want to go a long way. You are not answering my question. My question is simply this; do you admit that in Paragraph 11(d), it is not true that your father remitted Kshs250,000 using his Safaricom line? Do you admit that?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My question is simply this; when did you realise that was inaccurate?

**Mr. Dennis Mokaya Misati:** When I saw my father's statement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you saw it for the first time when your father explained that he did not send money to Dr. Monda through M-pesa. Is it not so?

**Mr. Dennis Mokaya Misati:** The initial case was---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just limit yourself to my questions. When your father responded, you realised that Kshs250,000 was paid to Dr. Monda, is it not so?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How?

**Mr. Dennis Mokaya Misati:** The first transaction was done secretly between my dad and the Deputy Governor. Then he came back to me saying---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No, we are talking about a different issue. The question is simply whether it was paid through Safaricom? The answer is no. When did you learn it? You have said when my father responded.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let me just put it directly to you. You realised that the money was sent from a co-operative bank account directly to Dr. Monda, is it not the case?

**Mr. Dennis Mokaya Misati:** Sure.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That was the first time you realised, *kumbe* that transaction was not done through M-pesa to M-pesa, it was actually bank to bank transfer to Dr. Monda's account. Is it not so? Was there any time you knew your money was at a co-operative bank? Let me put it this way. Did you at any time deposit money at a co-operative bank account of your father and mother?

**Mr. Dennis Mokaya Misati:** No, I gave the full amount in cash.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You gave Kshs250,000 in cash. So, you did not know whether it was in M-pesa?

**Mr. Dennis Mokaya Misati:** Wherever they chose to keep it, I did not know.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much. I would like to move on.

You also say that your father remitted Kshs250,000. Is that correct? Was it Kshs250,000?

**Mr. Dennis Mokaya Misati:** It was Kshs251,000.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, even in that sense, this statement is also wrong?



**Mr. Dennis Mokaya Misati:** Yes. It was Kshs251,000.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I would like to put it to you that the reason you do not know that the money was from Co-operative Bank and that the money was Kshs251,000, is because Dr. Monda and your father were talking at a distance as you already told the Senate, is it not the case?

**Mr. Dennis Mokaya Misati:** That is not true.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What is not true?

**Mr. Dennis Mokaya Misati:** We live in a world of technology. So, if I make a transaction between me and you, it is personal. I cannot take---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I think that is irrelevant. What I am asking you is, if you were seated with Dr. Monda and your father, you would have heard that your father was saying, he will give him the money from Co-operative Bank. You did not hear that, did you?

**Mr. Dennis Mokaya Misati:** We sat at a distance.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Neither would you have heard about Kshs251,000?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Okay. For argument's sake, let us say that they discussed about the bribe. That story of whether or not this money was for a bribe or refund is what your father would tell you when you were leaving the place, is it not so?

You were not sitting together and discussing whether the work was worth Kshs1 million, Kshs500,000, Kshs799,000 or Kshs800,000. You were not there to listen to that conversation as to whether or not this money was a bribe. It must be what your father told you as you walked out, as we have seen in paragraphs 5, 6, 9, 11, and 17.

**Mr. Dennis Mokaya Misati:** Mr. Speaker, Sir, I do not see the need why I should go with all my sons to the Deputy Governor's house or home to pay a debt as he says. He could have done that comfortably from our home.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** But they are friends, is it not so?

**Mr. Dennis Mokaya Misati:** Yes, they are friends.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** In both your affidavit and statement, you said that they visited each other several times, is that not so?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** And this visit was not exceptional? The only distinction is that you went there with him for the first time.

**Mr. Dennis Mokaya Misati:** It was my first time.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** However, let us go back to the issue I want the Senate to understand. The question of the body of the conversation between the Deputy Governor and your father is an issue that you could have only learnt from your father while walking out because you were not seated with them, is it not?

**Mr. Dennis Mokaya Misati:** Actually, when the Deputy Governor called us, we knew what we were going to do at his home.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I will ask you again. Did you hear what they were discussing?

**Mr. Dennis Misati:** I did not hear what they were discussing but my dad was---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you did not know whether this money was for a job?

**Mr. Dennis Mokaya Misati:** I knew.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How did you know, when you could not hear? They had discussed earlier.

**Mr. Dennis Mokaya Misati:** My father had updated us before leaving home to Dr. Monda's place.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is okay with me. So, it is your father who told you that they were going to pay Dr. Monda to help you get a job. Is that your point?

**Mr. Dennis Mokaya Misati:** Dr. Monda had called him and instructed him to visit his place---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes. The real bottom line, Dennis, if you do not mind, is that there is no point at which where you and Dr. Monda discussed whether or not he could get you a job. All you know is what your father told you.

**Mr. Dennis Mokaya Misati:** Yes. All the communication was through my dad.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us now look at Paragraph five of your affidavit. You state that "in early April, 2023, my father had learnt through the Deputy Governor of a job at the Gusii Water and Sanitation Company (GWASCO). Have you seen that?

Hon. Members, page 17, Paragraph five.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In early April, 2024, my father had learnt through the Deputy Governor of job vacancies. Your position is that it was the Deputy Governor who told your father that? Is that what you are saying?

**Mr. Dennis Mokaya Misati:** Yes, that is my position.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The source of information was the Deputy Governor telling your father?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Let us look at Paragraph nine of your affidavit on page 18. It states "the Deputy Governor called us to his home in Kisii County within days of being informed by my father about the post and before the interview". Can you see that?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. At Paragraph five, you say that the traffic of information is from the Deputy Governor to your father. In Paragraph nine, you are saying that the source of traffic is from your father calling the

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Deputy Governor. The Senate is to check who initiated this discussion about the job. Is it as in Paragraph five, where the Deputy Governor initiated it or was it your father as is in Paragraph 9?

**Mr. Dennis Mokaya Misati:** Mr. Speaker, Sir, it is the Deputy Governor who called my dad.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Paragraph nine is inaccurate?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to look at Paragraph six. According to you, the Deputy Governor called your father and told him there is a job and then your father told you to scout-you used that word- and so forth. Is it not?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Paragraph six, you state that “on Friday, 21<sup>st</sup> April, 2023 while I was working with a company known as Together as One as a marketer, my father brought to my attention the advertisement for job vacancies by GWASCO on its website. I downloaded the advert and applied for the post of commercial manager.” Do you stand by that statement as it is?

**Mr. Dennis Mokaya Misati:** Yes.

**Mr. Katwa Kigen:** If you stand by it, could you tell this Senate when you knew for the first time that there was a job on offer at GWASCO; one of Kisii county’s subsidiaries? From the face of the statement.

**Mr. Dennis Mokaya Misati:** It was done through my dad. He is the one who told me---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am asking how you got to know the information. When was the first time you knew in regards to the face of the statement? It was on the 21<sup>st</sup> is it not?

**Mr. Dennis Mokaya Misati:** Mr. Speaker, Sir, from this statement, it was when I was told that there were vacancies.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You learned for the first time that the job has been advertised? Then you apply. Let us get this sequence in order. On 21<sup>st</sup> April, 2023, you were told it has been advertised and you applied. Then you were subsequently invited for interview, you went for it, evaluated but did not get the job. Is it not?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The discussion about the need to give Dr. Monda Kshs799,000 happens after you have made the application. Is it not?

**Mr. Dennis Mokaya Misati:** After I did my interview.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In evidence in chief, you said that the interview was on the 25<sup>th</sup> May, 2023. The correct position was that it was on the 15<sup>th</sup> May?

**Mr. Dennis Mokaya Misati:** The interview was around the 25<sup>th</sup> ---

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Mr. Katwa Kigen: Ms. Lucy Wahito says and yourself has said in other places that it was the 15<sup>th</sup> May, 2023.

**Mr. Dennis Mokaya Misati:** You can see from the ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, we can see from the letter of invite at page---I will get the date in a minute and then probably. If you could go to page 40---

You were shortlisted. Is that right? Pardon me. I am just trying to locate your name.

**Mr. Dennis Mokaya Misati:** You can check it on page 39. That is the page that has the shortlisted applicants.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When was the interview?

**Mr. Dennis Mokaya Misati:** 26<sup>th</sup> May, 2023.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is when the interview was?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You said page 39?

**Mr. Dennis Mokaya Misati:** Page 39.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is a shortlist of the Human Resource Manager (HRM). Were you applying for that position?

**Mr. Dennis Mokaya Misati:** We did them at the same time---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you check page 35, kindly? Anyway, let me do this because I do not see the date---

**Mr. Dennis Mokaya Misati:** It is on 25<sup>th</sup> May, 2023.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Look at the bottom of page 36. Are you there?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Does it show the date of the interview at the bottom?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, when was your interview again, my friend?

**Mr. Dennis Mokaya Misati:** This shows when the shortlisting was done, date 15<sup>th</sup>. However, the interviews were done on the 25<sup>th</sup> May, 2023.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. We will come back to that. You are telling this Senate that you learnt of the adverts on the 21<sup>st</sup> April, 2023. You made the application, got shortlisted and went for the interview before you discussed about the bribe?

I want the point in time where the issue of bribe was discussed. Was it before or after the interviews?

**Mr. Dennis Mokaya Misati:** After the interview.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The interview could have been on 25<sup>th</sup> May, 2023?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, before the date the interview was conducted, you had not discussed raising money to pay Dr. Monda?

**Mr. Dennis Mokaya Misati:** My father had told me that it would be required but at that time, the Deputy Governor had not communicated.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. When did he inform you? It is okay if you cannot remember. Just give us a timeline.

**Mr. Dennis Mokaya Misati:** It was towards the end of April.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You made your application on 21<sup>st</sup> April, is it not? And you are saying towards the end of April – so, we are looking around 25<sup>th</sup> to 23<sup>rd</sup> is when your father told you that it is likely that some amount will be required to get the job?

**Mr. Dennis Mokaya Misati:** This is April. We are talking about May when we gave the amount.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When did the subject of being bribed come up?

**Mr. Dennis Mokaya Misati:** After my interview.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are telling this Senate that the interview was on 25<sup>th</sup> May, 2023? Before that, the issue of bribe had not been discussed?

**Mr. Dennis Mokaya Misati:** It was not discussed, but we had an idea after my interview that something would be required.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Kindly tell this Senate again. You are saying that before your interview on the 25<sup>th</sup>, May, Dr. Monda had not asked for anything but you in your place suspected he might?

**Mr. Dennis Mokaya Misati:** I cannot confirm the communication that took place between my father and the Deputy Governor.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, the first time you had communication from Dr. Monda was post-interview on 25<sup>th</sup> May. This is the first time Dr. Monda spoke and said, ‘Please, bring me Kshs800,000’ according to you from your father?

**Mr. Dennis Mokaya Misati:** I cannot tell because they usually talk.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): If you do not remember, it is okay. But your position is that the earliest Dr. Monda asked about any money was after the interview.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Before that, he had not asked for any money.

**Mr. Dennis Mokaya Msati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. You said something I did not know. Before he asked you for the money after the interview on the 25<sup>th</sup> May, you suspected he might need some money.

**Mr. Dennis Mokaya Misati:** No, I told you all the communication was done ---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Just answer the question. You had said that earlier. Are you retracting? Did you suspect that you will need some money?

**Mr. Dennis Mokaya Misati:** To get some money? What do you mean? To give some money or get some money?

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** To give him some money for the job.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** From where you are seated you knew he might need it?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** But he had not told you.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Okay. We are looking at the date of the application as the 25<sup>th</sup>, we are looking at an application made on the 21<sup>st</sup> of April and an interview done on the 25<sup>th</sup> of May. I would like us to go to the Deputy Governor's bundle on page 256. Hon. Members, I am looking at Volume 1 of the County Assembly bundle page 256. Are you there, my friend? I am looking at your bundle.

**Mr. Dennis Mokaya Misati:** That is volume?

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Page 256 on this bundle. The sale agreement. Are you there?

Mr. Speaker, Sir, am I allowed to go next to him so that we move on as they look for the page?

**The Speaker (Hon. Kingi):** Please, if he can assist.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Mr. Dennis, I would like you to see the bottom of that agreement. In evidence in chief, you admit that you made that agreement on the 20<sup>th</sup> of April, 2023.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Okay. Keeping in mind the timelines you have said – you applied on the 21<sup>st</sup> of April, you went for the interview on the 25<sup>th</sup> of May, then the request for a bribe was raised by Dr. Monda according to you. By the 25<sup>th</sup> of April 2023 when you were selling your salon for Kshs500,000, Dr. Monda had not told you anything about a bribe. You were only suspecting that he would ask for a bribe.

**Mr. Dennis Mokaya Misati:** I did not know any communication.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Sorry.

**Mr. Dennis Mokaya Misati:** I did not know of any communication between Mr. Monda and my dad at that time. At this time, I was not at home, I was in Nairobi.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, I know you were in Nairobi. At that time, when you were selling it, you had no communication about any bribe being required.

**Mr. Dennis Mokaya Misati:** My dad told me we shift from Nairobi to Kisii. It was necessary to make the job arrangements. I had to.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, if your interview was on the 25<sup>th</sup> of May, the issue of the need to use the money you had came a month later on the 25<sup>th</sup> of May. This is the 20<sup>th</sup> of April and Dr. Monda is asking for money – I am not saying he did, this is according to your case. He asked for it a month later on the 25<sup>th</sup> of May.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): All this time you are holding the money?

**Mr. Dennis Mokaya Misati:** I was not holding the money. I gave the whole amount to my father. I told you they operate a business, I gave them the whole amount to keep it safe.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, I have the greatest possible respect for you, Mr. Dennis. When you cry and say you sold your salon, you are doing so from your mind that a bribe might be required. Dr. Monda did not tell you he needed the money. When you were selling it, it was not because he had told you to sell your salon.

**Mr. Dennis Mokaya Misati:** As I stated earlier, I did not know any communication between my father and ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Why are you crying? It is not Dr. Monda who told you to sell your salon or caused you to sell your salon. He had not told you to give him any bribe.

**Mr. Dennis Mokaya Misati:** Where is my business? Where did it go to?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you sold it on the 20<sup>th</sup> Dr. Monda had not spoken to you. Had he? I have made my point to the Senate I would like to move on to a different issue. I want to finish because I know your colleagues need time. You said Dr. Monda threatened you.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is the other account against Dr. Monda. We have agreed that you never spoke with Dr. Monda at any point on the phone.

**Mr. Dennis Mokaya Misati:** Every communication was done through my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Even the threat came through your father?

**Mr. Dennis Mokaya Misati:** It came through Hon. Siocha whom I had reported the issue to, and he told me to write a formal statement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I do not know if we are mixing the issues. We are talking about being threatened. We agree that there was no

communication between you and Dr. Monda. Any time you needed to communicate to Dr. Monda, you would do it through your father?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At a certain point, you labour under the feeling that you had been threatened and the feeling was communicated to you by your father or by whom?

**Mr. Dennis Mokaya Misaati:** When I told my dad I wanted to make a formal complaint, he was not of the idea.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Please answer the question directly. Is it your father who told you that Dr. Monda is upset and has threatened your life?

**Mr. Dennis Mokaya Misati:** I got the information from my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The Senate can then rest and say, knowing that the point that you were threatened was communicated to you by your father that it came from Dr. Monda.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is good enough. I want to move on from there. Looking at paragraph 17, I have two last issues I want to discuss. First, we proceed to paragraph 12. You have nothing to show that any Kshs300,000 was given to Dr. Monda other than word of mouth.

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You do not have?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are a witness for the point that Kshs300,000 given to Dr. Monda. Is your father Mr. Joseph Misati?

**Mr. Dennis Mokaya Misati:** Yes, I was with my father.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He will testify and say, "I was with my son when we gave Dr. Monda the money."

**Mr. Dennis Mokaya Misati:** Yes, I was with him.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us move on to paragraph 15. You said that-

'I thereafter wrote a demand letter to the Deputy Governor'.

Could you confirm that in the totality of the documents you have brought, you have not given us a copy of that demand letter?

**Mr. Dennis Mokaya Misati:** What I did after the complaint to hon. Siocha ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): We have documents that the Senate is looking at as you have seen we have gone through. The letter is not among the documents. There is no demand letter that you brought to the Senate.

**Mr. Dennis Mokaya Misati:** I gave the copy to Hon. Siocha.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is Hon. Siocha who will explain it?

**Mr. Dennis Mokaya Misati:** Yes.



**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, let us move on. You reported the matter to the Ethics and Anti-Corruption Commission (EACC).

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Hon. Members, I want to refer to the DG's bundle page 16 where the letter of EACC is.

Could you confirm that this is the letter of complaint? Why do they keep taking the document away from you? We are on page 16 which is a letter dated 6<sup>th</sup> February, 2024, delivered to the EACC on 20<sup>th</sup> of February. This is not the letter you used to make your complaint.

**Mr. Dennis Mokaya Misati:** This is a follow-up letter.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you brought to this Senate a copy of your letter of complaint, tabulating the issues you have complained against Dr. Monda?

**Mr. Dennis Mokaya Misati:** The complaints were recorded and there was no document given.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you meant you have nothing to show for it?

**Mr. Dennis Mokaya Misati:** Yes, it is only the recording that they did at the Ethic and Anti-Corruption Commission (EACC).

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, and you have no reference number?

**Mr. Dennis Mokaya Misati:** Actually, there was no reference number given.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, this Senate is investigative in these kinds of matters and might want to know whether that report was made. Could you tell this Senate, what day did you make this report to EACC?

**Mr. Dennis Mokaya Misati:** It was before this---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You were prepared to make this case and you are saying you reported to EACC, could you tell us, was it on 14<sup>th</sup> February, 2023 or 16<sup>th</sup> or whichever date. Could you give us a specific day or you do not have a day?

**Mr. Dennis Mokaya Misati:** I cannot remember the specific date.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Which place did you report this to?

**Mr. Dennis Mokaya Misati:** EACC.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Where?

**Mr. Dennis Mokaya Misati:** At Integrity.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Integrity House?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And your statement is at Integrity House?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. So, if this Senate wants to summon somebody to confirm that, who did you report your statement to? Give us a name.

**Mr. Dennis Mokaya Misati:** I do not know the name, but after I made the complaint ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just answer the question directly, so that we move on. You do not have a name?

**Mr. Dennis Mokaya Misati:** I remember she was a lady, but I do not remember her name.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Pardon.

**Mr. Dennis Mokaya Misati:** She is a lady.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): She is right handed or left handed or you do not know?

**Mr. Dennis Mokaya Misati:** I cannot tell.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, but you do not know the name, date and you have no copy of any complaints.

I would then to move on to a different issue as I close. What is your wish from this Senate? Your wish is that you get back your money? Is that what you want this Senate to say? What is your wish?

**Mr. Dennis Mokaya Misati:** My wish as a young graduate, it is just a representation of the exploits that---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No, you cried about your money and so, is it your point that you want the Deputy Governor to be punished, lose his job or you want the refund of your money? What is it that you want this Senate to do?

**Mr. Dennis Mokaya Misati:** When I made the complaint to the police, I wanted my money back.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are not answering my question. You want back your money?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your expectation is that this Senate will tell the Deputy Governor to give you back your money. Let me ask you differently. Have you filed a civil suit for refund of your money?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is it your interest that your father's friend be punished? Is your point that I want punishment for him or that is not your interest? Your interest is money or punishment?

**Mr. Dennis Mokaya Misati:** My interest is not only money. It is my long-term savings I would have made over the period of years.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, that is the same point, you want money.

**Mr. Dennis Mokaya Misati:** This is just a representation of the youth on the exploits we are going through under these politicians who ask favours in return of jobs. So, I am just a representative of the youth.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you have come to represent the youth in making this complaint?

**Mr. Dennis Mokaya Misati:** Actually say, yes. If there are other youths out there who have not---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you have come here on behalf of the youths?

**Mr. Dennis Mokaya Misati:** Sorry.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have come here on behalf of other youths? Please, answer my question yes or no.

**Mr. Dennis Mokaya Misati:** It is both.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your tears this afternoon is also for the rest of the youth.

**Mr. Dennis Mokaya Misati:** It was my life time savings. It is for the baby I lost through this process.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, let us look at Page 15 of the Deputy Governor's bundle which is your letter of complaint.

**Mr. Dennis Mokaya Misati:** Which page?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Page 15 of that same bundle. On page 15, you have said the only interest --- Are you on page 15?

**Mr. Dennis Mokaya Misati:** This one?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, that one. You said I have written to you because the Deputy Governor is acting with impunity. I believe as a Member of the County Assembly you are in a position to assist me by disciplining him through the County Assembly.

All you have come to do is to punish him. You are not even interested in your money and saloon. You are only interested in him being punished. Is it not?

**Mr. Dennis Mokaya Misati:** Punishing him means it is a refund and to see--

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you asked for any refund in any of your affidavit or statement?

**Mr. Dennis Mokaya Misati:** I actually wrote to him to get a refund complaining of the money he took from me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I will move on because I just want to use --- The last thing I want to explore before I hand over to my colleague is page 13. If you could go to page 13, kindly the second paragraph.

Page 13 of the Deputy Governor's bundle hon. Members. Are you there at page 13? At paragraph two, you said the brief facts are that in April last year 2023, my father relayed some information he had received from the Deputy Governor about an advert on Gusii Water and Sanitation Company Limited (GWASCO). You can see that?

**Mr. Dennis Mokaya Misati:** It is on page?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is on page 13. Your letter of 19<sup>th</sup> December. I am inviting you to paragraph two. Are you at paragraph two on the brief facts? Are you there?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Could you confirm this is what you wrote? The brief facts are that in April last year 2023, my father relayed some information he had received from the Deputy Governor. You can see?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, this letter was written when?

**Mr. Dennis Mokaya Misati:** I wrote this letter to---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You wrote this letter when?

**Mr. Dennis Mokaya Misati:** December.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): 19<sup>th</sup> December?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, taking paragraph two for its full meaning; it means you wrote this letter last year, 2022?

**Mr. Dennis Mokaya Misati:** Sorry.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Taking this paragraph two for its full meaning, it means the brief facts that of April last year which is 2022. Is it not?

**Mr. Dennis Mokaya Misati:** I think there was a mistake in typing. It was the same year.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is a mistake?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you are telling this assembly, this should have read brief facts of this year, 2023?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Who wrote this letter? You or Hon. Siocha?

**Mr. Dennis Mokaya Misati:** I am the one who wrote. He told me to write a formal complaint.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I put it to you that it is true that this letter was backdated to all events. Did Hon. Siocha come to you and said, we are looking on behalf of the Governor for a way to remove the Deputy Governor and we know you have an issue with him? Could you please do a complaint and then the two of you backdated the letter to 2023 when we were already living in the year 2024?

**Mr. Dennis Mokaya Misati:** Hon. Members, there was no backdating.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You deny that you are not a weaponized youth?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, since you said that, I want us to go to page 14. I would like us to look at paragraph C. Are you at paragraph C?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At paragraph (C), you said Kshs50,000 on 28<sup>th</sup> May though my Mpesa and then after that statement you said, annexed hereto and marked DMM4 is true copy of my M-pesa statement printout reflecting the said transaction. Can you see that?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is that correct?

**Mr. Dennis Mokaya Misati:** Yes, I attached my Mpesa statement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You attached it to the letter of 19<sup>th</sup> December, 2023.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You had a M-pesa statement on 19<sup>th</sup> December, which you attached and sent to hon. Siocha. Is it not?

**Mr. Dennis Mokaya Misati:** The one I sent to hon. Siocha.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The one we are relying on in this Senate. Is it not?

**Mr. Dennis Mokaya Misati:** I gave this statement to Hon. Siocha.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us look at the annexure then. I would like us to go to page 21 of that same bundle; the Deputy Governor's bundle. Are you at page 21?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is it true that the date of obtaining this Mpesa statement was 29<sup>th</sup> January, 2024 as we said a few minutes ago in my cross examination?

**Mr. Dennis Mokaya Misati:** It is true this is ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It was on 29<sup>th</sup> April?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you are saying you are attaching it and it is December, 2023 this Mpesa did not exist, did it?

**Mr. Dennis Mokaya Misati:** First, I gave the Mpesa transaction. The first one I printed through Safaricom. Again, he called me and said he had misplaced the statement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I put it to you that you are lying.

**Mr. Dennis Mokaya Misati:** I am not lying.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are not lying?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Where is that statement you had as at December, 2023?

**Mr. Dennis Mokaya Misati:** I gave to Hon. Siocha. When I made a formal complaint, I attached my Mpesa statement, interview application and all those.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are saying you gave hon. Siocha a Mpesa statement that existed as at 19<sup>th</sup> December, 2023 and it is not this one?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is not the annexure you put there? It is not the annexure you gave hon. Siocha?

**Mr. Dennis Mokaya Misati:** This is another one that I printed again.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That other that you had you have not presented it anywhere, or have you? It is nowhere in the whole of your case. Is it?

**Mr. Dennis Mokaya Misati:** I told you the first one I gave to hon. Siocha.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then hon. Siocha frustrated your case by doing that. I put it to you again that the truth of it is that you wrote this letter in post 29<sup>th</sup> January, 2024. You carelessly said I am enclosing an M-pesa statement, which then belly up your case by showing that, indeed, you are deep into the year 2024.

**Mr. Dennis Mokaya Misati:** That is not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This statement, the one dated 19<sup>th</sup> December, by yourself and stamped by Hon. Siocha on 21<sup>st</sup> February, is back dated.

**Mr. Dennis Mokaya Misati:** I am not getting the whole sense in it, because I told you---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): All I am saying is that you wrote a letter dated 19<sup>th</sup> December and enclosed an M-pesa statement, which turns out to have been on dated 29<sup>th</sup> January, 2024. That is long after 19<sup>th</sup> December. That means that you did not have that M-pesa statement on 19<sup>th</sup> December.

**Mr. Dennis Mokaya Misati:** That is why I told you---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Which in effect means you wrote this letter after 29<sup>th</sup> January, 2024. Both yourself and Hon. Siocha backdated it to 19<sup>th</sup> December and prepared a stamp with hon. Siocha dated 21<sup>st</sup> December, 2023.

**Mr. Dennis Mokaya Misati:** That is not true.

*[The Speaker (Hon. Kingi) left the Chair]*

*[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Anyway, it is true from where we stand.

Hon. Temporary Speaker, I would like my colleague, Mr. Kelvin Michuki, to ask a few questions. He will probably use about ten minutes then we will be done. Thank you.

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**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Orwoba, what is your intervention on this?

Counsel, just hold on.

**Sen. Orwoba:** Mr. Temporary Speaker, Sir, I wanted to intervene when the Senior Counsel was there. Since we are following the proceedings, I feel that they are not allowing the witness to answer. Can they allow the witness to answer because we are also following? We are not getting the---They are badgering the witness.

**The Temporary Speaker** (Sen. Wakili Sigei): That is past. The Senior Counsel has already concluded with the witness.

Counsel, proceed and ask your questions.

**Sen. Orwoba:** Mr. Temporary Speaker, Sir, before counsel addresses you, we were cautioned that we have four hours. For guidance purposes, do our four hours include the cross-examination session and time consumed?

**The Temporary Speaker** (Sen. Wakili Sigei): Yes, Counsel for the County Assembly. Remember, the directions given was that you have been given four hours wholesome. That means it is inclusive of your examination-in-chief, cross examination and re-examination. You started at 3.30 p.m. and you have done almost two hours of your time.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): To that effect, will there be equality of arms, so that the defense does not eat into our time, because that could be their strategy as well. I am guided by your direction. We still have five more witnesses. Could we get direction as to how we will get equality of arms in that respect?

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, mindful of the time that is provided for the County Assembly as well as the defense. We will deal with it as we progress.

Sen. Wafula, proceed.

**Sen. Wafula:** Asante sana, Bw. Spika wa Muda. Ni lazima tupate mwelekeo. Sio vyema Maseneta waliopo hapa kuchukua nafasi kwamba ni mawakili ama wawakilishi wa washukiwa ama washtakiwa katika masuala haya. Waache kesi iendelee jinsi inavyopaswa kuendelea.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Wafula, resume your seat.

Proceed, Sen. Sifuna.

**Sen. Sifuna:** Mr. Temporary Speaker, Sir, I do not know if in the programme, there was specification of the amount of time to be taken in cross-examination, so that we have a fair idea of how much time is left for cross-examination. I am sure that even the counsel of the Deputy Governor would want to know how much time he is playing with.

**The Temporary Speaker** (Sen. Wakili Sigei): As earlier on indicated, the time that was given at the point of starting these proceedings was that four hours is availed to the County Assembly. The four hours was wholesome. That means you divide that time with regards to re-examination, cross-examination and examination-in-chief. However, let us progress. Be mindful of the time. We will appropriately give instructions at that time, but be mindful of that time allocation as you proceed.

Counsel, proceed.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Temporary Speaker, Sir, Members of the House, for the record, I am Kelvin Michuki, appearing for the Deputy Governor.

Good afternoon, Mr. Misati.

**Mr. Dennis Mokaya Misati:** Good afternoon to you.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will start you off by, first, inquiring if you are a resident of Kisii County or Nyamira County?

**Mr. Dennis Mokaya Misati:** I am a resident of Nyamira County.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): If someone was to tell us you are a resident of Nyaribari Chache, that would be a lie?

**Mr. Dennis Mokaya Misati:** It will be a lie.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): If Mr. Siochi who moved the Motion at the County Assembly was to say you are a member of his ward, that would be a lie.

**Mr. Dennis Mokaya Misati:** It will be a lie.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You have indicated that you were working and running businesses in Nairobi City County?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): When did you move back to Nyamira?

**Mr. Dennis Mokaya Misati:** After I did my interview.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was it in April or March?

**Mr. Dennis Mokaya Misati:** It was the month of April, 2023.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): When did you meet the Deputy Governor?

**Mr. Dennis Mokaya Misati:** I met him at his home on 28<sup>th</sup> May.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): And that was the first time that you met the Deputy Governor when you went to his place?

**Mr. Dennis Mokaya Misati:** That was the first time I had gone to his place, but I had met him severally before.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was this the first time you went with your brothers and your father at his place?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): How long had you been in Nairobi before that?

**Mr. Dennis Mokaya Misati:** For a period of 13 years.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Since the Deputy Governor came into office, you have been a resident in Nairobi?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So you cannot state how often your father visited the Deputy Governor at his place?

**Mr. Dennis Mokaya Misati:** I cannot tell.

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**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, you cannot say whether that was a regular occurrence or not.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You have indicated that you were employed by a corporation known as Together as One. Have you provided any proof of this fact?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was the money that you utilised to invest in your salon sourced from your employment or gambling activities?

**Mr. Dennis Mokaya Misati:** It was from my salon business.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will go back to the issue of moving to Nyamira in April. This was before you learnt of this job at Gusii Water and Sewerage Company (GWASCO)?

**Mr. Dennis Mokaya Misati:** I relocated to Nyamira after learning about the position.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): When did you apply for this particular job?

**Mr. Dennis Mokaya Misati:** It was in early April. After I made the application, I did the interview, then I came back to Nairobi and moved back.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): There is your sales agreement of your saloon. You can refer to that.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): It is in your bundle; not that bundle, the other bundle. When was this agreement made?

**Mr. Dennis Mokaya Misati:** At Ruai.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): What page is that, just for the House to be aware?

**Mr. Dennis Mokaya Misati:** Page 256.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): The agreement is dated at the bottom?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Which dates?

**Mr. Dennis Mokaya Misati:** 20<sup>th</sup> April.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): 20<sup>th</sup> April 2023?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): When you sold your salon, did you apply for the job?

**Mr. Dennis Mokaya Misati:** There was a communication that the advertisements will be out so I should prepare for an interview.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Had you even learnt of this job at that time?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will take you to your statements. Still on Volume one of the County Assembly's bundle, page 248. I would like you to read for the House paragraph six.

**Mr. Dennis Mokaya Misati:** On Friday 21<sup>st</sup> April, 2023, while I was working with a company known as Together as One Investment Limited microfinance as a marketer, my father brought to my attention the advertisement for job vacancies with GWASCO on its website. I downloaded the advertisement and applied for the post of commercial manager.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, when you father brought it to your attention on the 21<sup>st</sup> that there is a job at GWASCO, had you already agreed and sold your salon?

**Mr. Dennis Mokaya Misati:** There was an earlier communication that I should prepare.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): We go with what is on the record. According to the record, you had already sold your salon.

**Mr. Dennis Mokaya Misati:** We had agreed, but had not sold the salon.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): An agreement to do what?

**Mr. Dennis Mokaya Misati:** To sell.

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel, for purposes of housekeeping and timekeeping as well, the County Assembly had been allocated four hours. We have so far done 52 minutes in examination-in-chief and cross-examination has taken 60 minutes. We are yet to deal with three examinations.

Going forward, Counsel Michuki remember, if I heard right, the Senior Counsel Katwa indicated that you will take 10 minutes. I believe you will be done with your cross-examination hopefully in the next five minutes. This is so that we embark on a re-exam and rework the timelines going forward with the remainder of the witnesses. Hopefully, you will close on that part in the next five minutes.

Before I give you back the microphone, Sen. Omogeni, you may have the Floor.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, you have dealt with part of the issue that I wanted to draw to your attention to.

We have done a number of impeachments in Plenary and what normally happens from the Chair is that you give guidance to the amount of time that will be spent on cross-examinations. You know, this is a time-bound proceeding. We only have two days. If the defence is allowed to cross-examine for the entire of this evening, we will not have the benefit of taking evidence from the other witnesses.

For example, on what is happening, Counsel Katwa did very well. He took us through the agreement and made reference to the dates. The counsel is again taking us back to the same agreement and repeating the same questions. I plead that you give guidance for full compliance on the time the defence should take for cross-examination so that we make progress.

**The Temporary Speaker** (Sen. Wakili Sigei): Point taken. You are aware, there is definitely no way the Chair can intervene as to what you have just said. However, for

purposes of proceeding, Counsel Michuki, you should be closing in the next five minutes. I will give directives to your next witness. This must have been your star witness that is why this much time has been taken.

Proceed to conclude.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Temporary Speaker, Sir, and the Senior Counsel, we are guided.

Mr. Misati, we shall move from that point and move to a quite emotive issue it seemed.

In your evidence, you raised an issue that is neither in your statements or in the Motion that was moved in the County Assembly. The issue about your wife who was expecting having a miscarriage. Can you confirm to the House that this was not in your complaint to Hon. Siochi?

**Mr. Dennis Mokaya Misati:** I had explained to him.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is it in that letter that we have?

**Mr. Dennis Mokaya Misati:** It was not in the letter.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is it in the Motion that was moved at the County Assembly?

**Mr. Dennis Mokaya Misati:** I am not aware, but I thought his was more of a personal family issue.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You have raised it before this tribunal so we have to go through it.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have you put before this honourable House any documents to support this fact?

**Mr. Dennis Mokaya Misati:** No, I have not because it took place in Kisii. I was not able to get the documents.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Can you at least give us a timeline on when it happened?

**Mr. Dennis Mokaya Misati:** It was in August last year.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You have indicated that you made a statement to the EACC.

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will take you to the follow-up that we have, the one you were referred to by Mr. Katwa, just for confirmation purposes. There is nothing else you have placed before this tribunal or sent to hon. Siochi with regard to the EACC?

**Mr. Dennis Mokaya Misati:** I made a complaint to the EACC when I came here in January.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Nothing has been placed before this House except that follow-up letter.

**Mr. Dennis Mokaya Misati:** It was the follow-up letter.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You also testified that Lucy Wahito was called to record a statement at EACC according to your knowledge.

**Mr. Dennis Mokaya Misati:** Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): From what source did you get this information?

**Mr. Dennis Mokaya Misati:** I had made a complaint to EACC.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Where did you get the information that Lucy had been called to EACC to record a statement?

**Mr. Dennis Mokaya Misati:** Through the communication I got from EACC.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Did you get a communication from the EACC?

**Mr. Dennis Mokaya Misati:** Yes, there is a lady who called me after I had submitted my ---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): What was the name of this lady? Is this another unknown person?

**Mr. Dennis Mokaya Misati:** I cannot remember the exact name but ----

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, this is another nameless unknown person from EACC?

We move to the money that you paid. The transactions happened on the 28<sup>th</sup> May?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was this before or after you were shortlisted?

**Mr. Dennis Mokaya Misati:** It was after I was shortlisted.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was this before or after you were interviewed?

**Mr. Dennis Mokaya Misati:** After I was interviewed.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, you were making a bribe to engage in a process that had already occurred?

**Mr. Dennis Mokaya Misati:** I did not call it a bribe earlier on.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): A facilitation to facilitate a process that had already occurred.

*(Mr. Dennis Mokaya Misati nodded)*

The nod should go on record. You have not said yes.

**Mr. Dennis Misati:** Yes.

**The Temporary Speaker** (Sen. Wakili Sigei): That must be your conclusion.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Temporary Speaker, Sir, I am remaining with just two questions.

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel, I had given you five minutes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I can see I have a few seconds left.

**The Temporary Speaker** (Sen. Wakili Sigei): That is why I am telling you that this must be your last question.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Misati.

**Mr. Dennis Mokaya Misati**: Yes, Sir.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You explained that the reason you went with your father to this meeting was to act as a witness to the facilitation fee being paid.

**Mr. Dennis Mokaya Misati**: Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were your brothers who you also say were there also witnesses?

**Mr. Dennis Mokaya Misati**: This was my money---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): No, I am not asking you whose money it was. Were your brothers also witnesses to this facilitation fee?

**Mr. Dennis Mokaya Misati**: Yes, they were present.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have you called any of them as your witnesses to support that fact?

**Mr. Dennis Mokaya Misati**: I have not.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are you afraid they will say something different?

**Mr. Dennis Mokaya Misati**: Sorry.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are you afraid that they will say something different or side with your father and say that that was his money?

**Mr. Dennis Mokaya Misati**: I do not know the communication, but I took it at a personal level.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): This is my last question. The follow up that we discussed from the EACC, at page 16 of the Deputy Governor's (DG's) bundle, can you see that letter?

**Mr. Dennis Mokaya Misati**: Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): When was it received at the EACC?

**Mr. Dennis Mokaya Misati**: It was written on 20<sup>th</sup> February.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): 20<sup>th</sup> February of which year?

**Mr. Dennis Mokaya Misati**: 2024, this year.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was it after the Motion had already been moved at the County Assembly?

**Mr. Dennis Mokaya Misati**: It was before.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was the Motion not placed at the County Assembly on the 13<sup>th</sup>?

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**Mr. Dennis Mokaya Misati:** Yes. I cannot tell the particulars of the issues.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Okay. Thank you. Mr. Misati.

**The Temporary Speaker (Sen. Wakili Sigei):** Mr. Ndegwa, we need to guide you in terms of time. How much time do you need for---

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Mr. Temporary Speaker, Sir, for re-examination, we will take cumulatively a total of about six minutes.

**The Temporary Speaker (Sen. Wakili Sigei):** Proceed, then we will guide on the subsequent witnesses.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Dennis, do you recall being asked a question why your mother was sending the money to you?

**Mr. Dennis Mokaya Misati:** Yes, I remember.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Have you heard the allegation that this was a debt that was being paid?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** You have also confirmed that the Deputy Governor and your father had the traditions of sending money to each other previously, right?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Were you involved in those transactions before?

**Mr. Dennis Mokaya Misati:** No. I was not.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Can you confirm that this is the only transaction that you are involved?

**Mr. Dennis Mokaya Misati:** Yes, this was the first and the only one that I was involved in.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Can you confirm that the purpose of which you are involved is because the matter related directly to you in search of a job?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Confirm that the facilitation fee was sought by the Deputy Governor.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Further confirm that, it is your father who told you that the Deputy Governor has placed a demand for purposes of securing that job?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Further confirm that, it is your father who told you to send the Kshs200,000 to Mr. Monda?

**Mr. Dennis Mokaya Misati:** Yes. He is the one.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Further confirm that, during the time at which you sent or the transaction was commenced, the recruitment for that post had not occurred.

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**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You have been asked and taken through the Statement about the gambling. Right?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did the gambling come before you sold the salon or after?

**Mr. Dennis Mokaya Misati:** It was after I sold the salon.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): That is a confirmation that Dr. Monda rendered you destitute.

**Mr. Dennis Mokaya Misati:** Yes, it is true.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I will take you, then I yield to Mr. Mutuma. Hon. Senators, I am referring to our bundle of documents. The big book, volume I, page 189.

As they open page 189, do you recall, a question was put to you as, between the Deputy Governor and your father who approached who?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Are you at page 189?

**Mr. Dennis Mokaya Misati:** Yes, I am there.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Can you see where we have Mr. Katwa Kigen asking questions and where you have the Hon. Deputy Governor answering?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I want you to read the paragraph that begins, “Mr. Speaker, just as a good friend, Mr. Joseph Misati and I, somewhere in April, I was made to know that there is an advert---

Please read that paragraph.

**Mr. Dennis Mokaya Misati:** It reads, “Mr. Speaker, just as good friends---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, that is the HANSARD for 29<sup>th</sup> February, 2023 that took place at the County Assembly of Kisii. What is the Deputy Governor saying in that Statement?

**Mr. Dennis Mokaya Misati:** It says-

“Mr. Speaker, just as good friends, Mr. Joseph Misati and I, somewhere in April, I was made to know that there is an advert that has come up at GWASCO and Misati as a friend would ask me that his son has also tendered his application. Is it possible for him to be assisted to get a job?”

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Who is making that averment? Is it you, your father, or the Deputy Governor?

**Mr. Dennis Mokaya Misati:** It is the Deputy Governor.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is he confirming that he was involved in search of that job in your favour?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is he confirming that, Mr. Misati, your father, is the one who approached him for the purpose of that job?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Who is the issue being referred to as 'son' in these circumstances?

**Mr. Dennis Mokaya Misati:** I am the son.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You were put to task to explain why you cried and you said that you cried because of your money.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is there any other reason that made you cry?

**Mr. Dennis Mokaya Misati:** Yes. I lost my baby.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): While you are at that stand, did you hear the Speaker direct that the Serjeant-at-Arms does take charge of another cry that came from the Gallery?

**Mr. Dennis Mokaya Misati:** I am sorry for that, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Kitwa Kigen): Mr. Temporary Speaker, Sir, in your directions for re-examination, the direction is that re-examination be targeted at issues that were canvassed in the evidence-in-chief. We did not make any reference of anybody in the Gallery or the Serjeant-at-Arms. That issue should not be introduced.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir---

**The Temporary Speaker** (Sen. Wakili Sigei): Very well, Mr. Ndegwa---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, with due respect to the Senior Counsel, if you may---

**The Temporary Speaker** (Sen. Wakili Sigei): Listen, the Chair is on the microphone. Guide your witness. Do proper exam. You are a practitioner.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, I believe counsel having practised for many years than I have, knows that facts *initio* or facts not *initio* can become an issue? There is a question as to why the cry?

Dennis, I am sorry for that ordeal. Do you connect the loss of your child by any means to the proceedings, or to whatever happened between you and the Deputy Governor?

**Mr. Dennis Mokaya Misati:** Yes, I do.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Finally, Dennis, as I yield. At the time, the Deputy Governor sought for this money had recruitment been made?

**Mr. Dennis Mokaya Misati:** It had not yet.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): When was the interview?

**Mr. Dennis Mokaya Misati:** The interview was on 25<sup>th</sup> May.



**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): When was the recruitment?

**Mr. Dennis Mokaya Misati:** It was done later, around August-September?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Around July?

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, I yield to Mr. Mutuma.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, my friend. Thank you, Mr. Temporary Speaker, Sir, for the opportunity. I have three questions.

One, Mr. Dennis Misati, during the cross-examination, you were put to task to explain why in your Statement, you said that money was transacted from your father's Mpesa to the Deputy Governor's Mpesa, yet evidence shows that it came from Co-operative Bank.

Can you explain whether this transaction was a mobile banking transaction, or was it a direct withdrawal from Co-operative Bank? What was the nature of that transaction?

**Mr. Dennis Mokaya Misati:** I think it was a mobile banking transaction.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Then, whether it was from Mpesa or not, it is your father's gadget that was used to transact.

**Mr. Dennis Mokaya Misati:** Yes, it was my father's.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. You have also been accused of being a criminal who bribes.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Offering a bribe is a crime.

**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What motivated you to offer, what you are now calling facilitation? Was it because you had a criminal mentality, or what was the motivating factor? What drove you to give the Kshs800,000?

**Mr. Dennis Mokaya Misati:** It was the urgency to get a decent employment. Like any other youth out there, we always hope for the best. If you get decent employment, that is for the betterment of the family.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have been accused of being a gambler and we have seen that occasionally you gamble spending a negligible amount of money in gambling. Is it in your nature to gamble?

**Mr. Dennis Mokaya Misati:** No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What led you to begin gambling?

**Mr. Dennis Mokaya Misati:** It was due to the hard times. It was another means of trying luck.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): A source of livelihood?

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**Mr. Dennis Mokaya Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. That is all, Mr. Temporary Speaker, Sir. We wish to dispense with this witness at this moment and call our next witness.

**The Temporary Speaker** (Sen. Wakili Sigei): Witness, you may--- Yes, Sen. Sifuna.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Unless hon. Senators have questions.

**Sen. Sifuna:** Thank you, Mr. Temporary Speaker, Sir. Counsel, before you do, we have a few interventions. I wanted some clarity on two issues. This concern is addressed to Senior Counsel Katwa Kigen. Could you tell me what conclusions you wanted this House to draw from that cross-examination on the witness's gambling history?

Secondly, I want to know from the defence whether there is an admission or it is the position of the defence that a crime was committed and, therefore, the witness is a criminal.

**The Temporary Speaker** (Sen. Wakili Sigei): Before SC Katwa Kigen responds to that, if there are any clarifications that hon. Members would want to get from the respective counsels, we will limit to two minutes per person so that we keep time and go ahead.

Senior Counsel Katwa Kigen, you have the Floor?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, on the two questions that have been put to me, we pray that the Senate draws its conclusion based on the data on the gambling. All we are asking is to treat the testimony of the complainant with circumspection. We would want you to take what he says with an amount of caution that he is not necessarily saying the truth. Also, from where he comes, he is inclined to get things freely and cheaply.

On the question of him having admitted a crime meaning that we are admitting the crime, we are not making any admission. We are merely saying that in the quest that he has put in his letter of complaint, he is determined to have the Deputy Governor punished to a point that he is prepared to incriminate himself and make an admission of having committed a crime. He is ready to shoot his foot, provided that he gets the Deputy Governor punished. That is the sense in which we are raising the point of his admission of the crime. We are also saying that you should treat him with circumspection.

Mr. Temporary Speaker, Sir, I hope I have answered the questions. I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. Onyonka.

**Sen. Onyonka:** Mr. Temporary Speaker, Sir, this is a question I want to ask the young gentleman. I realised that all the transactions you were making were done at night. Was there a reason? Why that was the case?

**Mr. Dennis Mokaya Misati:** Mr. Temporary Speaker, Sir, the Deputy Governor called us to his home between seven heading to eight. That was when we went to his home. We sat there until 9.00 p.m. and then left his home.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Joe Nyutu is not in. We can have Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, my question is to SC Katwa Kigen. The witness has attempted to demonstrate the facilitation of Kshs800,000. You have challenged the witness and given the impression that the witness was involved in criminal activities. Counsel, can you help me? If you want me to believe by dint of that suggestion that the witness is a criminal, are you, therefore, admitting that the recipient, who is the Deputy Governor, is equally criminally implicated?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, that is the question that my learned friend, Sen. Sifuna, had asked and our answer remains the same. Our position is that the Kshs800,000 was a refund and that there is no relationship between payment that was remitted to Dr. Monda and any allegation of bribery.

It is also our position that there is such a concerted effort to impeach and damage the name of the Deputy Governor that the witness is prepared to incriminate himself, if that is the only measure that will need to be taken for the Deputy Governor to be punished.

There is a possibility that he has not committed that crime and that does not believe in bribery. However, since it is the only way to ensure achievement of punishment to the Deputy Governor, he is prepared to say that he has committed that crime, so that it places the matter before you. We are not making any admission of any wrongdoing.

I hope I have answered your question, Sen. Sifuna.

**The Temporary Speaker** (Sen. Wakili Sigei): Fair enough. Take your seat, Senior Counsel Katwa Kigen. Let us listen to Sen. Wambua.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, I will stay with that line of questioning to Senior Counsel Katwa Kigen. Supposing there is an admission on the part of the witness, that indeed he participated in a criminal activity, would that absolve the Deputy Governor from liability of a similar crime?

Secondly, you said the reason you are pushing that line of gambling is to demonstrate before this House that the witness cannot be relied on and that he has a history of using easy ways to get money. Is it then your admission that we should never expect any truth from a person who gambles?

**The Temporary Speaker** (Sen. Wakili Sigei): Yes, Senior Counsel Katwa Kigen.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, we make no admission. For argument's sake, if that was the case and the witness was to say that in his state of mind, he gave out the amount deeming it to be a bribe, then there is no corresponding state of mind on the part of the Deputy Governor that he was receiving a bribe.

The Deputy Governor was receiving a refund of money he had given to the parents of my friend, Dennis. On the part of the Deputy Governor, his position is that he was receiving a refund of his money. If on the part of the state of the witness' mind is that

he was giving out a bribe, then that has nothing to do with the culpability of the Deputy Governor.

On the question of gambling, I did not intend to say that my friend, Mr. Misati, is involved in gambling and that necessarily makes him completely unbelievable. I was only saying that his testimony should be treated with circumspection. You should exercise caution in entertaining what he has said and the truth of what he is saying. However, I am not saying that it is utterly and completely nothing.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Senior Counsel.

Hon. Members, I will only allow one last person to make that inquiry, Sen. Thang'wa, so that we progress from there to the next witness.

**Sen. Thang'wa:** Thank you very much, Mr. Temporary Speaker, Sir. I have one question for the witness. The question is that I would want to know his feeling that his father is coming to testify against him.

If the witness got the job, could he have complained?

Mr. Dennis, proceed to---

**Mr. Dennis Mokaya Misati:** Mr. Temporary Speaker, Sir, on humanitarian ground, it is very sad and emotional that my dad is against the reality and the truth. He is colluding with somebody who took my money. He is calling for a refund instead of what we call facilitation. It is not a good feeling as a son.

The second question you asked is if the facilitation I was asked was needed and led me get the job, why would I be here? I would be comfortably be working in the office.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, my dashboard is full. You are all aware this is a time bound proceeding and we must progress. How do we progress? I will not allow any additional Member to seek any clarification. We will have a period within which to get those confirmations at our time.

I will, therefore, direct that the witness can step down. Thank you very much, Dennis.

Counsel, proceed to call your next witness. As you prepare to call the witness, you will indicate the time that you will require for that particular witness so that we cap the time you will take the examination-in-chief as well as cross-examination. For purposes of time, it is now 12 minutes past 6 p.m.

You have taken with your first witness over two hours 30 minutes. What is remaining is one hour and 20 minutes. I need to know how much time you will require for your next witness.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, thank you for that guidance. For purpose of this witness who was the Mover of the Motion, we will need approximately 30 minutes for examine chief.

**The Temporary Speaker** (Sen. Wakili Sigei): Senior Counsel, Mr. Katwa Kigen.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): May we request for equal time for cross-examination?

**The Temporary Speaker** (Sen. Wakili Sigei): I will give you less. I will give you 20 minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, we will try to make do.

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Temporary Speaker, Sir. Our next witness is Hon. Wycliff Siocha.

*(The witness for the County Assembly (Hon. Wycliff Siocha) was ushered into the Chamber)*

**The Temporary Speaker** (Sen. Wakili Sigei): You may proceed to be sworn in.

*(Hon. Wycliff Siocha took the oath)*

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Would you kindly state your names and your qualification and what you do for purposes of record?

**Hon. Wycliff Siocha Gesongori**: My name is Wycliff Siocha Gesongori. I am an elected Member of County Assembly (MCA) for Kisii County Assembly representing the people of Ichuni Ward. I am a financial manager, a banker by profession and the Chairperson of the Committee on Implementation in the County Assembly of Kisii. I am also a Member of the Committee on Health and also Liaison Committee, a family man and a father.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What was your role in respect to this Motion?

**Hon. Wycliff Siocha Gesongori**: I was the Mover.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You were the Mover of the Motion?

**Hon. Wycliff Siocha Gesongori**: Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You have charged the Deputy Governor with offenses ranging from gross violation of the Constitution, misconduct and violation of the written law and abuse of office. Is that it?

**Hon. Wycliff Siocha Gesongori**: Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Why have you placed a charge or why have you preferred the said charges? If you were to begin with the charge. Perhaps before we go to the charges, how were you seized of these matters?

**Hon. Wycliff Siocha Gesongori**: The genesis of the Motion before you was as a result of a complaint letter I received from Mr. Dennis Misati.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): When is the date of the complaint letter?

**Hon. Wycliff Siocha Gesongori**: The complaint letter was received in my office on 21<sup>st</sup> of December and was addressed to me. It was written by Mr. Dennis Misati.

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**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Hon. Members, I am referring to the letter at page one of the County Assembly bundle of document, page 1. Is that the letter dated the 19<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** Yes, that is the letter.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is that the letter that formed the basis of your impeachment Motion?

**Hon. Wycliff Siocha Gesongori:** Yes, that is the letter.

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel Ndegwa, hold on. Sen. Cheptumo, you know how to catch the eye of the Chair. What is your point of intervention?

**Sen. Cheptumo:** Mr. Temporary Speaker, I do not intend to interrupt the proceedings, but the witness should rely on his affidavit. He has not been able to confirm to the House that he is relying on the affidavit in his evidence. That is very important.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Cheptumo, the witness is led by a counsel. I do not expect you to direct on how he wants. Let him proceed.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Speaker, Sir, thank you for the protection.

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, I had said that the genesis of the Motion before this Senate was as a result of the letter I received from Mr. Dennis Misati. It is dated 19<sup>th</sup> but it was received in my office on 21<sup>st</sup> December, 2023.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Let us go to the first charge that appears at page 15 of the bundle of document by the County Assembly. That is the Motion. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You have charged him for violating the Constitution; Article 73, Article 74 and Article 75. Yes?

**Hon. Wycliff Siocha Gesongori:** That is true.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you conduct any preliminary investigations before?

**Hon. Wycliff Siocha Gesongori:** Yes, I did.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What was revealed in your investigation?

**Hon. Wycliff Siocha Gesongori:** In my investigation, what was revealed was that, indeed, there was canvassing between the Deputy Governor involving the family of one Joseph Misati and the Chief Executive Officer (CEO) for the GWASCO.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What were the canvassing for?

**Hon. Wycliff Siocha Gesongori:** First, there is a meeting that was initiated by the Deputy Governor which took place in his home and the members present in that meeting were the family members of one Joseph Misati. Also present in that meeting was one Dennis Misati who had already done an interview with GWASCO for the position of commercial manager.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm in your investigation, whether that interview or that advertisement or application was actually there?

**Hon. Wycliff Siocha Gesongori:** Yes, I did. I made a follow-up to the office of the Director; the Managing Director, and made inquiries on exactly what transpired. She did a statement to my office, which is annexed here. She also provided me with the M-pesa statement because the allegations were that she also received a portion of the money.

So she gave me or rather provided me her M-pesa Statement, which indeed I confirmed that there was money that was sent from the M-pesa number for one, Deputy Governor Robert Onsare Monda, to the M-pesa number for one, Lucy Wahito. Again, on the same, I noted that the money was reversed again after two days.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm the purpose as to why Mr. Deputy Governor received the money from Dennis Misati and Joseph Misati?

**Hon. Wycliff Siocha Gesongori:** Yes. From my investigations, I noted that upon Mr. Misati doing the interview, they went home on the invitation of the Deputy Governor, and the Deputy Governor promised to help them get the job by offering a small fee.

They call it a small fee. So, a small fee in this question is a whooping Kshs800,000. However, what I know from my investigation, the total amount of money that was given to one Deputy Governor, Monda, was 799,000.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you get to know who triggered this action as to who moved the Deputy Governor for this position? If yes, were you in the County Assembly on the 29<sup>th</sup> of February, 2022? If yes, did you witness him testifying to that effect of the evidence appearing at page 189 of the bundle by the County Assembly? Did you witness the Deputy Governor confirming that he was soliciting for favours?

**Hon. Wycliff Siocha Gesongori:** I was there. I heard him personally say.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you witness him confirming that he approached both the Chief Executive Officer (CEO) of the GWASCO?

**Hon. Wycliff Siocha Gesongori:** Yes, I heard him confirm.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): On page 189 of the bundle of documents, what document is that?

**Hon. Wycliff Siocha Gesongori:** That is the HANSARD report for the Kisii County Assembly proceedings.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What is the Deputy Governor saying in the last paragraph?

**Hon. Wycliff Siocha Gesongori:** The Deputy Governor says-

“Mr. Speaker, Sir, just as good friends, Mr. Joseph Misati and I, somewhere in April was made to know that there is an advertisement that has come up in GWASCO. Mr. Misati, as a friend, could ask that his son has also tendered his application. Is it possible for him to be assisted to get the job?”

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**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Yes, what is he confirming?

**Hon. Wycliff Siocha Gesongori:** He is confirming that indeed he has canvased

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm that canvassing and to whom is he referring when he speaks about a son?

**Hon. Wycliff Siocha Gesongori:** He is referring to one, Mr. Dennis Misati. Who had already tendered his application towards the Commercial Manager position.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): In the pursuit of the truth, did you ever meet one, Lucy Wahito?

**Hon. Wycliff Siocha Gesongori:** Yes, I met her.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): If yes, what did you confirm that she does at Kisii County?

**Hon. Wycliff Siocha Gesongori:** I confirmed that she is the Managing Director for the GWASCO.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm that she was involved in these acts of bribery?

**Hon. Wycliff Siocha Gesongori:** Yes, I confirmed because she revealed to me that the Deputy Governor summoned her to his office and made it known to her that he had a friend who has a son who is interested in the position of the Commercial Manager, which had already been put on the dailies and that the application process was ongoing.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm whether Lucy, prior to the sending of the money, had met the Deputy Governor?

**Hon. Wycliff Siocha Gesongori:** Yes, they had met.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Under what circumstances did Lucy disclose to you that they met?

**Hon. Wycliff Siocha Gesongori:** Upon receiving the letter from one Dennis Misati, I started doing my own investigations to ascertain the whole material facts that had been given to me by Dennis Mr. Joseph Misati.

That prompted me to visit the office of the Managing Director in pursuit of getting all the information and exactly the transaction that involved them between the Deputy Governor and herself. That is Lucy.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): So, you confirm that the Deputy Governor did approach one Lucy in favour of a job?

**Hon. Wycliff Siocha Gesongori:** Yes, he did and summoned her to his office.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Again confirm at page 189 of the same bundle of documents by the County Assembly, the last paragraph where the Deputy Governor is testifying.

**Hon. Wycliff Siocha Gesongori:** Yes?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Were you at the County Assembly at that particular time?

**Hon. Wycliff Siocha Gesongori:** Yes, I was present.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Kindly lead out to the hon. Senators as to what the Deputy Governor indicated on the record.



**Hon. Wycliff Siocha Gesongori:** This is the answer to the report and this is what the Hon. Deputy Governor had to say before the Assembly-

“Like any other leader, Mr. Speaker, this request came to me. Everyone, Hon. Members knows that Lucy in GWASCO would work under, like many staff who work under the Governor’s Office where I am also the Deputy Governor. So, I indicated to Lucy, asking her if they had such kind of jobs and she said, yes. A friend is making a request that he get his son a job like every one of us here could do. She told me, let us wait for the process and if he qualifies, we shall not deny him the job.”

The discussions ended there.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Have you confirmed that he did confirm on the record that he approached Lucy for that favour?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Does it, therefore, surprise you that Kshs100,000 is sent to Lucy?

**Hon. Wycliff Siocha Gesongori:** It does not surprise me at all.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): At what period were the Kshs100,000 sent?

**Hon. Wycliff Siocha Gesongori:** It was after the interview. It was sent on 28 May, around 9 a.m.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I want you to have a look at the Deputy Governor's defense.

**Hon. Wycliff Siocha Gesongori:** The money was sent to Lucy because it is on page 99 of the DGs submission. The money was sent to one Lucy Wahito on 28<sup>th</sup> May, 2023, at 21.24.13. It was after a few minutes past 2100 hrs.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did she confirm to you what she immediately did after the receipt of the saved monies?

**Hon. Wycliff Siocha Gesongori:** Upon receipt of the money, the Deputy Governor did not call her. However, on the morning of 29<sup>th</sup>, the one Lucy called the Deputy Governor. Upon calling the Deputy Governor, the Deputy Governor confirmed to her that the sent amount was in reference to the discussions they had with her in his office.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is Lucy one of the witnesses that you have lined up for cross-examination?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, allow me to lead you to page four of the bundle of documents by the Deputy Governor. Most importantly, paragraph 13. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes, I am there.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): At page 13, is the Deputy Governor confirming that they have been friends with one Joseph Misati for over 30 years?

**Hon. Wycliff Siocha Gesongori:** Yes, he is confirming that.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Kindly read paragraph “C”.

**Hon. Wycliff Siocha Gesongori:** Paragraph C of the...

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You can begin from “B”.

**Hon. Wycliff Siocha Gesongori:** Okay, paragraph B of 13 reads –

“Mr. Joseph Misati and his whole family were there for me when my daughter died around 2018. Clause C says, we asked each other for possible favours and these include borrowing each other and refunding agro vet stocks, borrowing each other and refunding money, favours like helping each other look out for votes, business opportunities, jobs, education, and other social welfare openings, especially our children.”

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): So, he further confirms through his affidavit that he is in the habit of seeking these favours.

**Hon. Wycliff Siocha Gesongori:** Yes, he does confirm.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Permit me to take you to paragraph eight of the said bundle of document by the Deputy Governor appearing on page 3. Are you at paragraph 8?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Can you confirm that you were treated with malice and ill feeling at the time you actuated this Motion against the Deputy Governor? Before that please confirm that you are the Member of the County Assembly (MCA) referred to in paragraph 8.

**Hon. Wycliff Siocha:** Mr. Temporary Speaker, Sir, and for the record, it is immoral---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Please confirm that you are the MCA referred to.

**Hon. Wycliff Siocha Gesongori:** I confirm that I am the MCA referred to.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Have you internalized those allegations contained therein?

**Hon. Wycliff Siocha Gesongori:** I have internalized all of them.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Have you seen that the Deputy Governor indicates and alleges that you actuated by malice and ill will against him?

**Hon. Wycliff Siocha Gesongori:** Yes, I have seen.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): He labels you as an extortionist, a person who has insatiable greed for money and that he sent you approximately Kshs40,000 and that he could not cope with your demand for more money.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): That when the demand ceased you actuated this Motion?

**Hon. Wycliff Siocha Gesongori:** That is what he has said.

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**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What do you have to say about that?

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, for the purpose of record in this hon. House, it is immoral, unethical and a sin, not only before men, but also before God for the Deputy Governor to twist the material fact before---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What was transpiring at the time when these monies were sent to you?

**Hon. Wycliff Siocha Gesongori:** In the said month, I lost my aunt; one of the closest aunts who had raised me and we had a funeral during that period. The first tranche that he sent on 7<sup>th</sup>, I remember, I received a call from the Deputy Governor at around noon; it was a few minutes to noon when he called to pass the condolence message following the sudden death of my aunt.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): So, you confirm that this money was sent to you by the Deputy Governor to facilitate the funeral of your aunt?

**Hon. Wycliff Siocha Gesongori:** Yes, I confirm.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did he ever attend that funeral?

**Hon. Wycliff Siocha Gesongori:** He attended in person.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Do you have evidence?

**Hon. Wycliff Siocha Gesongori:** I have the evidence.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, may I ask that the IT Department plays that video clip which is referred to as "Burial".

**The Temporary Speaker** (Sen. Wakili Sigei): Serjent-at-Arms, please process that video clip to play.

**Hon. Wycliff Siocha Gesongori:** Please play the first one minute and the last one minute.

*(A video clip was played)*

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Who is that speaking?

**Hon. Wycliff Siocha Gesongori:** That is myself speaking and next to me is my wife and those are the children that my aunt left.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, I do not know whether all the Members of the Assembly are able to follow that language, or perhaps we need an interpreter

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, what language is that?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I guess that is the Kisii Language.

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**The Temporary Speaker** (Sen. Wakili Sigei): Can we find one for Kiswahili or Sign Language?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Speaker, Sir, we brought that to the attention of the Clerk. The Clerk indicated that they will provide an interpreter for us.

**The Temporary Speaker** (Sen. Wakili Sigei): Can you run the clip to the end, I will give directions on its admissibility. Or perhaps Sen. Omogeni could be interested in interpreting.

**Sen. Omogeni**: Mr. Temporary Speaker, Sir, while a few of us have the benefit of following, I am sure majority of the Senators, including Sen. (Dr.) Khalwale, may not be able to follow. We will be listening to this clip for 10 minutes, but nobody will be following.

Maybe, you could give direction that an interpreter be availed to concurrently make an interpretation so that the Senators are able to follow. It would also have been nice if we had a written script interpreting what is being said in English so that we are able to follow. However, I do not think it will serve any purpose for the clip to be played while more than three-quarters of the Senators are not following.

**The Temporary Speaker** (Sen. Wakili Sigei): Senior Counsel, that is exactly what the Chair was doing. I am informed that we now have an interpreter who can just be ushered in to run us through the interpretation.

Kindly, replay the clip. Let it start and let us have the interpreter to interpret.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, for purposes of expediency, we can play the first one minute and the last one minute.

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, just hold on. What is your point of order, Sen. Onyonka?

**Sen. Onyonka**: Mr. Temporary Speaker, Sir, my suggestion would be, because it is allowed under the rules of the House and I do not have the Standing Orders; we could allow the clip that is being played to be taken by the Speaker's office, allow somebody to interpret it and then it is forwarded to us when we will be doing our review tomorrow morning as we proceed. This is because somebody might interpret---

**The Temporary Speaker** (Sen. Wakili Sigei): There is already an interpreter.

Hon. Members, we now have an interpreter in the House and for purposes of record and clarity, the interpreter is a Kenya Broadcasting Corporation (KBC) staffer who has been seconded to the Senate and is, therefore, fully entitled to support in interpretation.

I will direct that we run the clip so that as the clip runs, we can get the interpretation from the gentleman who has been ushered in.

Clerk, let us run the clip.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Speaker, Sir, for expediency, the first minute and the last minute are the ones that are relevant.

**The Temporary Speaker** (Se. Wakili Sigei): Okay, please run the first one minute and the last one minute of the clip

*(A Video was played and interpreted)*

**The Interpreter** (Mr. Isaac Agwata): In the first statement, he is giving his message and saying that he is so sorry that death has come at that early stage when the aunt had all the plans to make sure that her children would grow and so she had a plan to buy them a piece of land, but those plans have been cut short.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed to run the remainder of that video clip.

*(A Video Clip was played and interpreted)*

**The Temporary Speaker** (Sen. Wakili Sigei): Kindly stop it there. Let us run small bytes for purposes of interpretation.

**The Interpreter** (Mr. Isaac Agwata): He has given his message. He has said sorry and appreciated the community for the effort they have put in making the ceremony a success.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, can they play the last part of it?

**The Temporary Speaker** (Sen. Wakili Sigei): Kindly play the last part.

*(A Video Clip played and interpreted)*

**The Interpreter** (Mr. Isaac Agwata): Mr. Temporary Speaker, Sir, that is the Deputy Governor for Kisii County. He has said that he would like to be there for the entirety of the funeral, but he is forced to leave because of another ceremony that he is going to attend as he is to represent the Governor. He is giving the message to the MCA, *Embande*, is the name he is referring to. He is telling him to take good care of the children that have remained behind.

**The Temporary Speaker** (Sen. Wakili Sigei): Continue with the video clip.

*(A Video Clip was played and interpreted)*

**The Temporary Speaker** (Sen. Wakili Sigei): Kindly pause it there for interpretation.

**The Interpreter** (Mr. Isaac Agwata): Mr. Temporary Speaker, Sir, the Deputy Governor is giving out the Erongori or support that the Governor has sent him, which is Kshs20,000. He is referring it that way because it is being given to the children and he does not know the name to refer the amount to.

**The Temporary Speaker** (Sen. Wakili Sigei): Continue with the video clip.

*(A Video Clip was played and interpreted)*

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**The Temporary Speaker** (Sen. Wakili Sigei): Kindly pause it there for interpretation.

**The Interpreter** (Mr. Isaac Agwata): Mr. Temporary Speaker, Sir, the Deputy Governor has asked who he is to give the amount to and he has finally handed it over to the *Embande* and he has told him that it is the children's kitty.

**The Temporary Speaker** (Sen. Wakili Sigei): Who is the *Embande*?

**The Interpreter** (Mr. Isaac Agwata): *Embande* refers to the area MCA. He has told him to make sure the amount goes to the children's kitty. He also said goodbye and God bless.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Temporary Speaker, Sir. I think we can stop at that. Mr. witness, is that the funeral that the Deputy Governor---

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, kindly hold on. Proceed, Sen. Omogeni. I wanted to reprimand you, but---

**Sen. Omogeni:** Pardon me, Mr. Temporary Speaker, Sir. I am not an expert in translating from Gusii to English. However, I want you to allow me to seek one clarification from my brother, Mr. Isaac Agwata.

I want him to confirm from the video clip that was played whether the Deputy Governor is saying that they had assisted the MCA in preparation of the funeral, which should be distinguished from the *Erongori* that he had brought to the funeral.

I want him to confirm whether that was made in the Deputy Governor's speech.

**The Interpreter** (Mr. Isaac Agwata): Yes. He indicated that they had given him support. Whatever he was giving that day was *Erongori* and not support.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Mr. Agwata, you are released.

Mr. Ndegwa, you may proceed and also take note of the time. I am sure you have been alerted to the minutes you have.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Thank you, Mr. Temporary Speaker, Sir. I shall be making an application for the restoration of the time we have wasted while looking for the interpreter.

**The Temporary Speaker** (Sen. Wakili Sigei): We did not waste time. We will take care of the amount of time. You will be accommodated.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): We are most obliged. Okay, when was this funeral?

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, it was in the month of May.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Which date to be exact if you can remember?

**Hon. Wycliff Siocha Gesongori:** She died around the 5<sup>th</sup> May, so the funeral run to the 20<sup>th</sup> May.

**The Counsel for the County Assembly** (Njiru Ndegwa): You received this money in three bunches?

**Hon. Wycliff Siocha Gesongori:** Yes

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): The first was on the 7<sup>th</sup> May, 2023? What was it for?

**Hon. Wycliff Siocha Gesongori:** Yes. In his message to me, he stated that because there would be more visitors going to the family and he knows money is needed for hospitality services----

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): It was for hospitality?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): How about the 28<sup>th</sup> and 29<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** When I was escorting the Deputy Governor out of the funeral, he promised to send some money towards the children's kitty. They had told me that the children who had been left were very young---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is that the money that was being sent?

**Hon. Wycliff Siocha Gesongori:** Yes, that is the money that he sent.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Therefore, is it the habit of the Deputy Governor to deny the truth and paint the person speaking the truth as liars?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): During the proceedings of this impeachment, did you conduct public participation.

**Hon. Wycliff Siocha Gesongori:** Yes, we conducted it as an Assembly.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What forms did the public participation take?

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, they were conducted at the sub-county and ward level.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What forms did they take? Did you have people submit memoranda?

**Hon. Wycliff Siocha Gesongori:** There were people submitting memoranda and there were those who came for the physical meetings at the various venues that had been spelled out by---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What was the purpose of the public participation?

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, it was to get the opinion of the electorate of Kisii County on this issue that was before the Assembly.

**The Counsel for the County Assembly** (Mr. Mwangi Njiru): Did you get that feedback?

**Hon. Wycliff Siocha Gesongori:** Yes, we got the feedback.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What was the nature of the feedback?

**Hon. Wycliff Siocha Gesongori:** The nature of the feedback was through written memoranda and physical submissions when the meetings were being conducted.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): During the public participation, did you have people speaking to the issues of the Motion.

**Hon. Wycliff Siocha Gesongori**: Yes, we had.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Do you have those video clips before the Senate and would you wish to play them?

**Hon. Wycliff Siocha Gesongori**: The video clips are there.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, we request that clip No. 1 be played.

**The Temporary Speaker** (Sen. Wakili Sigei): As you do that, just for your comfort, whenever we have such interventions, your time does not move. However, for guidance's sake, you have three minutes to conclude on your examination.

**The Counsel for the County Assembly** (Mr. Mwangi Njiru): Mr. Temporary Speaker, Sir, I am most obliged. Let us proceed to video Clip No.2.

*(A Video Clip was played)*

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, I think we still need the interpreter.

**The Temporary Speaker** (Sen. Wakili Sigei): Is there any other clip that you shall require interpretation on?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Yes, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Let us then have the interpreter, Mr. Agwata, here until such a time when we will be done with him.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): We are most guided.

*(The interpreter (Mr. Isaac Agwata) was ushered into the Chamber)*

Now that he is back, kindly play clip No. 1.

*(A Video Clip was played)*

What is she saying?

**The Interpreter** (Mr. Isaac Agwata): I have not gotten her name.

**The Temporary Speaker** (Sen. Wakili Sigei): She is called Irene, *Mama wa mutura*.

*(A Video clip was played and interpreted)*

**The Interpreter** (Mr. Isaac Agwata): She is Irene and she is asking that they have given this position to hon. Monda. Hon. Monda started asking for bribes. She is selling

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*mutura*. She is asking whether she can take the children to school if Dr. Monda is asking for a bribe to give a bursary.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Play the next clip.

*(A Video clip was played and interpreted)*

**The Interpreter** (Mr. Isaac Agwata): He is Shem Monda from Moticho ward. He is saying that when bursaries are being given out, he was asked for Kshs20,000 for him to be given a bursary. He was persuaded until the Kshs7,000 he had was taken.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Has he identified the person who is asking for that amount?

**The Interpreter** (Mr. Isaac Agwata): Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Who is he?

**The Interpreter** (Mr. Isaac Agwata): Dr. Monda

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Kindly recap what you have said.

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, that was clear. He has run the House through what was said.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Play the next clip.

*(A Video clip was played and interpreted)*

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, how many more clips?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Temporary Speaker, Sir, we are at the final one. There is the last clip about an old man with the issues of land and fraud. This is a very interesting clip. We have many for the interest of time, we will run this clip as the last one.

*(A Video clip was played)*

Thank you, Mr. Temporary Speaker, Sir, we can stop at that, as I finalise with this witness. Did he swear an affidavit before this assembly?

**Hon. Wycliff Siocha Gesongori**: Yes, he swore an affidavit.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is that the affidavit appearing on page 283 of the bundle of documents by the county assembly? Volume 1?

**Hon. Wycliff Siocha Gesongori**: It is the one appearing.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is he confirming those assertions and allegations in his affidavit?

**Hon. Wycliff Siocha Gesongori**: Yes, he is.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is he confirming that the price of land was Kshs500,000, but was negotiated to Kshs200,000?

**Hon. Wycliff Siocha Gesongori**: Yes.

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**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is he confirming that the balance of Kshs300,000 was to be set off by Dr. Monda by employing his sons?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Let us go to the clip that came from Masimba Ward. I want to refer you to page 36 of the bundle of documents the same that hon. Senators are holding. It indicates that there was no public participation at the venue. Yes?

**Hon. Wycliff Siocha Gesongori:** Yes, it indicates so.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Explain the source of the clip that you have played.

**Hon. Wycliff Siocha Gesongori:** The County Assembly did two dailies; that is in the *Daily Nation* and *The Standard* newspapers inviting the members of the public to appear in different sub-county venues. So, the members of the public had the opportunity to either attend at the sub-county level or ward level. Since, the initiative of going to the ward level was of us as MCAs.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Where was the clip recorded from?

**Hon. Wycliff Siocha Gesongori:** It was recorded in Kesusu, where the sub-county venue for Masaba South public participation was done for.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I am satisfied with that answer. Let us move to the question of the abuse of office. Yes?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You have accused the Deputy Governor of abuse of office. Yes?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): And that he deployed 20 county enforcement officers to procure an arrest?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm that?

**Hon. Wycliff Siocha Gesongori:** Yes. I confirmed.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Have you lined up a witness to come and confirm that allegation?

**Hon. Wycliff Siocha Gesongori:** Yes. There is a witness already lined up to come and witness.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What action has the County Assembly, through the oversight mechanism, initiated to confirm the veracity of that position?

**Hon. Wycliff Siocha Gesongori:** It is in one of our departmental Committee on Labour. So, it is an issue that is currently under investigation.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you confirm whether or not the 20 officers were appropriately or procedurally deployed by the person in charge of deployment?

**Hon. Wycliff Siocha Gesongori:** They were unprocedurally and unlawfully deployed.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Did you confirm between the police officers and the county enforcement officers who arrested Reuben Monda, the brother to the Deputy Governor?

**Hon. Wycliff Siocha Gesongori:** Actually, it is the county enforcement officers. They are the ones who even forced Reuben Monda to enter into one of the vehicles that was provided there.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Is Mr. Reuben Monda one of your witnesses to confirm that?

**Hon. Wycliff Siocha Gesongori:** Yes. He is one of my witnesses.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** It is your allegation that the Deputy Governor has deployed, unlawfully and unprocedurally, four enforcement officers to do manual works, odd jobs like milking and cooking for dogs?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Did you confirm that allegation?

**Hon. Wycliff Siocha Gesongori:** I confirmed.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Is that proper application of his role or functions of the Deputy Governor?

**Hon. Wycliff Siocha Gesongori:** It is not proper.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Have you lined up a witness to confirm whether or not all these deployments were procedural?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Did you summon? How is the witness coming?

**Hon. Wycliff Siocha Gesongori:** The County Assembly of Kisii, through the Senate, requested, Agayo Oyagi, who is the current Acting Director of Enforcement of Kisii County.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Was he a witness at the County Assembly?

**Hon. Wycliff Siocha Gesongori:** He was not a witness.

**The Counsel for the County Assembly (Mr. Njiru Ndegwa):** Finally, what would you want these hon. Senators, to do, in respect to your motion?

**Hon. Wycliff Siocha Gesongori:** Hon. Senators, this was one of the hard decisions that I had to make. For one reason that the Deputy Governor for Kisii, Dr. Robert Monda, is a very close friend of mine and, on the other side, I had this young man who was miserable and had already been duped his money.

So, I had to make a tough decision. I was not only doing this for Mr. Dennis Misati, but for the many jobless poor youths outside there, who have found themselves in the hands of unsuspecting civil servants, public officers and State officers. These people solicit funds from them in the promise that they can be give them jobs, but at the end of the day, they end up not having jobs.

I am, therefore, requesting and pleading with this House to set a precedence and give hope to the many youths outside there, not only to Mr. Dennis--- Ensure that Mr. Dennis gets justice at the end of the day.

Let the law follow its course. My plea is that let the Deputy Governor for Kisii County carry his cross.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Finally, I want to refer you to the bundle of document by the Deputy Governor, on his defence. The defence appearing as such, and refer you to page E8 to page 16.

**Hon. Wycliff Siocha Gesongori:** Which page?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Page 8 also put as E8, all the way to page 16, but we can stop at page 15. Have you gone through that defence?

**Hon. Wycliff Siocha Gesongori:** I have gone through the defence.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Are those averments and allegations related and relevant to this proceeding?

**Hon. Wycliff Siocha Gesongori:** They are absolutely not related to this proceeding.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): The question of harassment and intimidation by the Deputy Governor towards Mr. Dennis Misati, did you establish these averments?

**Hon. Wycliff Siocha Gesongori:** When Mr. Dennis Misati approached me, I think it was earlier December. He confided in me that his life was in danger. The communication that he relayed to me was from his father and it was being relayed on behalf of the Deputy Governor, when Dennis Misati gave an indication that he was going to record a statement with the EACC.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Are you aware where Mr. Dennis Misati and his wife are currently living?

**Hon. Wycliff Siocha Gesongori:** No. I do not know where they are currently living.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Did you establish how Mr. Dennis Misati raised the Kshs800, 000?

**Hon. Wycliff Siocha Gesongori:** Yes. I spoke with him and he told me he was running a saloon in Ruai. He had been given instructions by his father that by the assurance of the Deputy Governor, that the job was being given to him, some money was needed. Therefore, he sold the businesses because he had to relocate.

He sold his entire household, ---

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Thank you. Did he confirm to you whether or not that transaction had any effect to his family?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What did he tell you?

**Hon. Wycliff Siocha Gesongori:** Which transaction, sorry?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): The sale of the salon, household goods, forwarding of the Kshs800, 000 to the Deputy Governor and the failure to secure a job. All those transactions, did they affect Dennis family in any way?

**Hon. Wycliff Siocha Gesongori:** Yes. They affected his family.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): In which way?

**Hon. Wycliff Siocha Gesongori:** He told me that, by the time all these things were happening and upon realisation that they had not secured the job, they had lost all the money that they had committed into this process. He told me that his wife was expectant and, in the process, he lost the pregnancy. Equally, he has also gone through a lot of frustrations and he is under stress.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is it as a result of confidentiality of patient-doctor that you have not forwarded documents before this assembly?

**Hon. Wycliff Siocha Gesongori:** That is true?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Thank you.

**Hon. Wycliff Siocha Gesongori:** Additionally, for record purposes, the person who took Dennis' wife to the hospital is his father.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Confirm that again.

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, you have done 14 minutes outside the time you requested.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I am well guided. I yield the witness for cross-examination.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Mr. Katwa Kigen.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Good evening *Mheshimiwa*.

**Hon. Wycliff Siocha Gesongori:** Good evening to you, Mr. Katwa Kigen.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed and be mindful of the 20 minutes time that I have allocated you.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Temporary Speaker, Sir. It is your testimony that you indeed conducted verification of the allegations that you are bringing against the Deputy Governor.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That includes the question of whether or not he received a bribe from Mr. Dennis.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Whether he sent a bribe to Lucy?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Whether he threatened him?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He used Kisii County staff?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, let us start with the County Assembly. It is true that you issued the notice of intention to move a motion of impeachment on the 13<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The Senate can take the date as being 13<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You were subsequently there on the 21<sup>st</sup> when you moved your Motion?

**Hon. Wycliff Siocha Gesongori:** Yes. I was there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Eventually, you were there on the 29<sup>th</sup> when the motion was discussed and the Deputy Governor was afforded the chance to defend himself?

**Hon. Wycliff Siocha Gesongori:** Yes. I was there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And a voting was done?

**Hon. Wycliff Siocha Gesongori:** Yes, I was there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On that occasion of 29<sup>th</sup>, did you play these clips of public participation?

**Hon. Wycliff Siocha Gesongori:** No, I did not play them. They were not---

**The Counsel for Deputy Governor** (Mr. Katwa Kigen): You did not play them, is it not?

**Hon. Wycliff Siocha Gesongori:** The report was provided and tabled before the Assembly for public participation.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you were moving your Motion, you did not play them, is it not?

**Hon. Wycliff Siocha Gesongori:** There was a report---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Answer my question. When tabling your Motion, you did not play them.

**Hon. Wycliff Siocha Gesongori:** No, I did not play, but it was to be provided by the County Assembly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just answer my question. So you did not play them yourself? Do you recall them having been played for the Deputy Governor to see at that time?

**Hon. Wycliff Siocha Gesongori:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): They were not played.

I take it that as you stand here, you are familiar with the County Governments Act and Standing Orders that are relevant.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. What is your understanding of how a Motion for Impeachment is supposed to be moved?

**Hon. Wycliff Siocha Gesongori:** First is by giving a Notice to the County Assembly and then subsequently---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you aware of the provisions of Section 15 of the County Governments Act on how to initiate a process of impeachment?

**Hon. Wycliff Siocha Gesongori:** Yes, I am aware.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you comply with that process?

**Hon. Wycliff Gesongori Siocha:** Yes, I complied.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is your position that you complied with Section 15?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you comply with Standing Order Nos. 194 and 195 of the Kisii County Assembly Standing Orders?

**Hon. Wycliff Siocha Gesongori:** Yes, I complied.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, because of time, I will deal with that in the legal arguments.

I would like you to go to the bundle from the County Government. I would like us to go to page 96. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that from pages 96 to 103 are proceedings of 29<sup>th</sup> where you moved your Motion, voting was done and the Deputy Governor was heard in his defence? Is that correct?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us start with page 96. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you confirm what I have said, that the defence of the Deputy Governor, voting, and moving your Motion was on 29<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That heading of “votes and proceedings” is also accurate?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to go to the contents of page 103. You can see where your name is? Can you see where it is stated that Hon. Wycliff Siocha moved the Motion?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Hon. Members, I am referring to page 103 of the County Assembly bundle. That is the one that has different colours. The Motion was seconded by Hon. Karen Magara. Can you see that?

**Hon. Wycliff Siocha Gesongori:** Yes, I can see.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then the Motion was proposed. I would like you to read what comes after that. Could you read from where hon. Henry Moracha is talking?

**Hon. Wycliff Siocha Gesongori:** The leader of majority party rose on Standing Order No.93 on adjournment of debate to allow public participation, pursuant to Article 196 of the Constitution of Kenya.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That true position that on 29th--- We have already agreed that from pages 96 to 103 were the the County Assembly proceedings of 29<sup>th</sup>.

On page 103, it is stated that a Motion was moved to proceed to public participation by Hon. Henry Moracha. Is this correct?

**Hon. Wycliff Siocha Gesongori:** I think there was a mix-up of documents because---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Please answer my question.

**Hon. Wycliff Siocha Gesongori:** It is not correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This contention that the events of 29<sup>th</sup> entailed moving of a Motion for Adjournment for public participation on 29<sup>th</sup> is incorrect?

**Hon. Wycliff Siocha Gesongori:** That is what I am saying, counsel. This is not a true position. Probably there was a mix-up of documents because---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mheshimiwa, I am the one asking you questions. The HANSARD brought to this Senate says that on 29<sup>th</sup>, proceedings were adjourned for purposes of going to public participation. Are you saying that this HANSARD is incorrect?

**Hon. Wycliff Siocha Gesongori:** This is not a HANSARD report.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What is it?

**Hon. Wycliff Siocha Gesongori:** It is part of the Motion that I moved. What I am seeing here is purely a mix-up of documents because the HANSARD report for 29<sup>th</sup>---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Which question are you answering?

**Hon. Wycliff Siocha Gesongori:** Let me explain on the question you asked, counsel.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you at page 96, it says; the House assembled at 9.000 a.m., proceedings were opened with a word of prayer, then there was a Motion for removal from office, by way of Impeachment of the Deputy Governor, by Hon. Wycliff Siocha Gesongori.

You can read all that on those pages. There were interventions by various people. On page 103, you confirmed that you moved the Motion as is indicated and Hon. Magara seconded it. So far, that is correct, is it not?

**Hon. Wycliff Siocha Gesongori:** That is correct to that level.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are saying this is not the HANSARD report?



**Hon. Wycliff Siocha Gesongori:** This is not the HANSARD report. The HANSARD report is there and it is attached.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When the County Assembly tells the Senate that this is what happened on 29<sup>th</sup>, are you saying that what they are telling the Senate on page 103 is inaccurate?

**Hon. Wycliff Siocha Gesongori:** That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Secondly, you and I have agreed that on the same day, 29<sup>th</sup> February, 2024, was a Thursday, is it not?

**Hon. Wycliff Siocha Gesongori:** Yes, it was a Thursday.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On that day, votes were done, is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And 53 of you said the Deputy Governor should be impeached and the others said he should not be impeached.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen):: That happened on 29<sup>th</sup>, is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): From pages 96 to 103, can you see that report of those events at the County Assembly on that day?

**Hon. Wycliff Siocha Gesongori:** That is why I still insist that there is a mix-up of---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Please answer my question. Is there a report of the fact that on 29<sup>th</sup>, voting happened and a resolution was made to impeach the Deputy Governor?

**Hon. Wycliff Siocha Gesongori:** No, it is not there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On that second basis, this document is inaccurate, is it not?

**Hon. Wycliff Siocha Gesongori:** It is inaccurate.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to move to page 137. Hon. Members, I am still referring to the same bundle by the County Government on the contents of page 137.

Is that a HANSARD report or you still maintain it is not?

**Hon. Wycliff Siocha Gesongori:** That is the HANSARD report.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): May we look at page 137? It says; County Assembly of Kisii, Official Report, Special Sitting. The events of 29<sup>th</sup> was a Special Sitting for purposes of discussing the impeachment, is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The Special Sitting was held on 29<sup>th</sup> February. Could you tell this Senate when the Assembly sat? Which day of the week was it?

**Hon. Wycliff Siocha Gesongori:** Come up again.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It shows 29<sup>th</sup> February, 2024, but before giving that date, they have stated the day of the week when the sitting was held. What date is that?

**Hon. Wycliff Siocha Gesongori:** The date is 29<sup>th</sup> February, 2024.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you tell the Senate whether that is a correct statement?

**Hon. Wycliff Siocha Gesongori:** It is a correct statement, but there is a typo there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you the one who prepared the HANSARD? Are you responsible for the production of the HANSARD?

**Hon. Wycliff Siocha Gesongori:** No, I am not responsible.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How do you then know it was typographical?

**Hon. Wycliff Siocha Gesongori:** Because I was there. It was on Thursday and I can remember the accounts and the proceedings that we had in the County Assembly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, when it says it is Tuesday, is that wrong?

**Hon. Wycliff Siocha Gesongori:** That is a typo error. It is wrong.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then you will agree with me that even when this Senate wants to look at what you did in the County Assembly, it is true that the HANSARD has been manipulated and even the Senate cannot see?

**Hon. Wycliff Siocha Gesongori:** That is not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay it is not true. Is it true that 29<sup>th</sup> was on Tuesday and that you sat on Tuesday?

**Hon. Wycliff Siocha Gesongori:** It was not of course. That is a typo error.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): There are other issues I have raised.

Okay, I will move on to a different issue, but the point I am making is that because the 53 of you were very determined to remove the deputy governor, you go as far as manipulating the HANSARD.

**Hon. Wycliff Siocha Gesongori:** No, we are not manipulating the HANSARD and we are not that determined, we are just following the law.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are not determined; you are desperate. I would like us to move on to the Motion that you moved. We agree that you moved the Motion on the 13<sup>th</sup>, is it not?

**Hon. Wycliff Siocha Gesongori:** I did not move the Motion, but I gave notice of Motion.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I apologies, you are right.

**Hon. Wycliff Siocha Gesongori:** Thank you.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, I would like you to be given this bundle, the one for the deputy governor. Have you been given by my friends?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Hon. Members, the document I am referring you to is the one by the deputy governor. I would like you to go to the Motion that you moved that is on page five. Are you on page five please? Can you see that?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is the notice you gave of the intention to move a Motion to impeach the deputy governor.

**Hon. Wycliff Siocha Gesongori:** That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, the first thing I want us to agree is that you issued the notice on 13<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): As we have already discussed, you eventually managed to move the Motion on 29<sup>th</sup> and voting was done?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you agree on the face of it that 10 days would have expired on 23<sup>rd</sup> and by 29<sup>th</sup> when the Motion was being moved, discussed, and voted upon, it was already outside the 10 days?

**Hon. Wycliff Siocha Gesongori:** Of course, it was already outside the 10 days.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you say of course?

**Hon. Wycliff Siocha Gesongori:** No, sorry, it is outside the 10 days.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you.

Now, I would like you to go to page 3A of that same bundle. These are the Standing Orders upon which you moved the Motion, are they not?

**Hon. Wycliff Siocha Gesongori:** Just a minute. I am not getting the page 3A.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have gone too far; it is a little back.

These are the Standing Orders under which you moved the Motion. Standing Order No. 60 to 64, is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, could we look at Standing Order No. 60(4). Let us start 60(3), it says that-

“A member who has obtained the approval of the Speaker to move a Motion under paragraph one shall give seven days’ notice calling for impeachment of the governor. Upon expiry of the seven days and after notice is given, the Motion shall be placed in the order paper and shall be disposed off within three days”.

Do you agree with me that within the intention of that Standing Order, you should have disposed off this Motion within 10 days?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You agree with me on that?

**Hon. Wycliff Siocha Gesongori:** I agree.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I want us to look at 60(1). That is one issue out of the way. Did you eventually agree on the 21<sup>st</sup> of February to go for public participation?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you went for public participation, you scheduled the public participation for the 26<sup>th</sup> February. Is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you also agree that that public participation done on the 26<sup>th</sup> was already outside the 10 days which ended on the 23<sup>rd</sup> February. Is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you. Now, Standing Order No.60 requires that before giving notice under Section 33 of the County Governments Act, the member shall deliver to the Clerk a copy of the proposed Motion in writing stating the grounds and particulars. Is it not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you agree that the notice that you raised did not have these grounds and particulars?

**Hon. Wycliff Siocha Gesongori:** It had the grounds and the particulars in reference to the Kisii County Standing Orders.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): We are looking at the document at page 5, is it not? Hon. Members, page 5 of the deputy governor's bundle. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is the notice issued on 13<sup>th</sup>. Is that not?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is your contention that when we say gross violation of the Constitution, abuse of office, gross misconduct, and crimes under national law, you have complied with the need for grounds and particulars. Is that your position?

**Hon. Wycliff Siocha Gesongori:** All the documentation including the signature-

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Question, apart from this document dated 13<sup>th</sup>, did you issue anything else?

**Hon. Wycliff Siocha Gesongori:** Yes, I issued.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Where is it? Is it attached to this?

**Hon. Wycliff Siocha Gesongori:** Yes, they are there because I remember I gave a copy of the grounds on which I was giving the notice of Motion. I gave the signatures of the Members who were in support because I was required---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Apologies because of time. Let us turn from page 5 to page 6. Can you see an attachment of grounds and particulars?

**Hon. Wycliff Siocha Gesongori:** Unfortunately, I am not seeing it.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Have you seen it anywhere else?

**Hon. Wycliff Siocha Gesongori:** Yes, it had been indicated.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Is it the one which is attached to the document on page 6 being the ---

**Hon. Wycliff Siocha Gesongori:** No, they are not the ones.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, is there another set that the county Assembly has not brought here?

**Hon. Wycliff Siocha Gesongori:** All particulars have been provided for.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I know they have been provided for in the Motion of 21<sup>st</sup>. What I am saying is; if you are saying they were attachments to the notice of 13<sup>th</sup>, then the County Assembly has chosen to keep them away.

**Hon. Wycliff Siocha Gesongori:** Maybe.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Now, I would like us then to move to the public participation report that you then came up with, which is in the county Government bundle volume 1. Starting from page 24 to page 51. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Now, could you confirm to this Senate that the public participation document is on page 24 to page 51?

**Hon. Wycliff Siocha Gesongori:** Yes, I confirm.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Could you confirm that the entirety of that public participation report is not signed by anybody? Nobody has taken possession of it.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Now, you said you were present throughout the prosecution of this Motion right from the notice on 13<sup>th</sup>, 28<sup>th</sup>-  
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**The Temporary Speaker (Sen. Wakili Sigei):** Counsel Katwa, your time is up. You should be winding upon your questions.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Mr. Temporary Speaker, Sir, considering the volume of the material they brought, they had said 30 minutes and they took about one hour.

Mr. Speaker, Sir, I pray for your indulgence. Kindly, this witness makes all the difference, and we pray for your accommodation, kindly.

**The Temporary Speaker** (Sen. Wakili Sigei): How much time are you requesting?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Can I have the same time as they spend, which is about one hour?

**The Temporary Speaker** (Sen. Wakili Sigei): No, you cannot. I will give you an additional five minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could I kindly request for 20 minutes? Please?

**The Temporary Speaker** (Sen. Wakili Sigei): Not 20. I am giving you 10, Counsel Katwa.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you. Now, when you were in the Assembly, it is true that, indeed, the deputy governor (DG) complained that he has not been given a copy of the public participation report.

**Hon. Wycliff Siocha Gesongori**: Yes, he complained.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He also defended himself before he saw that report, is that not so?

**Hon. Wycliff Siocha Gesongori**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, I want you to look at page 103. You sympathize with me on the way I have been treated on time, is it not so?

**Hon. Wycliff Siocha Gesongori**: On which grounds?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Page 103. Are you at page 103 of the County Assembly report, please? At page 103, as much as we have agreed, that it was misplaced in terms of the date, it was true that Hon. Henry Moracha moved a Motion for public participation.

**Hon. Wycliff Siocha Gesongori**: That is not true. Actually, the County Assembly Majority Leader moved a Motion on 21<sup>st</sup>, so as to allow public participation.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is this the name of the---

**Hon. Wycliff Siocha Gesongori**: Give me a minute, Counsel.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is this the name of the Leader of---

**Hon. Wycliff Siocha Gesongori**: Excuse me, Counsel, I am making a Statement because you have asked a question. This Motion was moved on 21<sup>st</sup> by the Majority Leader of the Kisii County Assembly, to allow for Members to adjourn so that they can go for public participation, which is not provided for in our Standing Orders. However, remember, the Constitution of Kenya is supreme---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are going too far. It is okay. So, other than that the date is wrong, is this the correct state of the moving of Motion for public participation? Was the public participation Motion in the words used by the County Assembly Majority Leader, "rose on Standing Order No. 93 for adjournment to allow for public participation", correct?

**Hon. Wycliff Siocha Gesongori**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When the date is corrected?

**Hon. Wycliff Siocha Gesongori:** Yes, when the date is corrected.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. You see, we are not in any fight, we are in agreement.

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, the first thing I would like you to agree is, when you agree to proceed on adjournment, you did not agree on how that public participation would be funded. Did you?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You did not. You did not also agree on who would collect the views of the public.

**Hon. Wycliff Siocha Gesongori:** It was the County Clerk in the HANSARD and Communication Department.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You did not do that. Is that not so? It is also true that eventually it was the governor who financed the public participation and used the ward administrators. Is that not so?

**Hon. Wycliff Siocha Gesongori:** No. The governor did not ask---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): May I ask, did the ward administrators play any role in this public participation?

**Hon. Wycliff Siocha Gesongori:** They did not play any role.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like you to go to page 41 of the same County Assembly Report, which is the public participation process. I would like you to look at the last paragraph -Moticho Ward. Are you there?

**Hon. Wycliff Siocha Gesongori:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Does it say that the exercise was headed by the Ward Administrator and Ward Manager?

**Hon. Wycliff Siocha Gesongori:** That is what the Statement reads.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is what it says. So, indeed, the Governor and the Executive participated in this public participation. Is it not so?

**Hon. Wycliff Siocha Gesongori:** They did not participate.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you saying that this report is inaccurate?

**Hon. Wycliff Siocha Gesongori:** When the public participations were being conducted---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is this the report, correct?

**Hon. Wycliff Siocha Gesongori:** It is not correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you are now saying the County Assembly's public participation's report is not correct?

**Hon. Wycliff Siocha Gesongori:** No, I am not denouncing, but particularly on that aspect---

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is this the only one, which is not correct? Okay, I will move on to another question because of pressure of time. It is true that you played about seven clips of public participation today. Is it not so?

**Hon. Wycliff Siocha Gesongori:** I did not make any clip of any public participation. All these clips were provided by the HANSARD and Communication Department of the Kisii County Assembly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My question is, in all of them, they are standing behind flowers and trees. Right?

**Hon. Wycliff Siocha Gesongori:** Not all of them.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How many are in are in places other than flowers and trees?

**Hon. Wycliff Siocha Gesongori:** Counsel, when this interview---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Answer my question. Out of the seven clips that you played, is it true that five of them were individuals standing against a tree and a flower?

**Hon. Wycliff Siocha Gesongori:** Not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you, in any of the clips, see the public behind those people? Was there any that you could see a crowd?

**Hon. Wycliff Siocha Gesongori:** Individual public---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Answer my question.

**Hon. Wycliff Siocha Gesongori:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was any of the clips with members of public behind it?

**Hon. Wycliff Siocha Gesongori:** They were. Some had and some did not have because some of these individual interviews were being recorded aside, not amongst crowd.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Listen to me. In the clips that you played today, is there any that has members of public in its background?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. We will look at them again when we come to our defense. Mr. Dennis says that you lied, that he is a voter in your Ward. Is he a voter in your Ward?

**Hon. Wycliff Siocha Gesongori:** Nowhere on record am I saying that Dennis comes from my Ward.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You said that in the HANSARD, in your submissions, when you were moving a Motion and saying---

**Hon. Wycliff Siocha Gesongori:** I remember well I said that, by the time Dennis was doing a complaint to me, he was staying at Gitare, which is in Nyaribari.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I want to ask you the last question, then my colleague will just ask you a few questions. Is it true you said that you spoke to Ms. Lucy Wahito, and she gave you information?

**Hon. Wycliff Siocha Gesongori:** Yes.



**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is true that, at page 26 to 27 of her Statement, if you could look at the bundle from the DG, at the top of that page, it says-

“After receiving applications from interested persons, the Board shortlisted seven candidates for the post of Commercial Manager and invited them for interviews on 15<sup>th</sup> May.”

So, according to Lucy, the interviews were done on 15<sup>th</sup> May, is it not so?

**Hon. Wycliff Siocha Gesongori:** According to that Statement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The sale agreement that you said you saw was done on the 20<sup>th</sup> of April, is it not so?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is over a month earlier, right?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Notwithstanding that, it is your position that that money from that sale was for purposes of a bribe?

**Hon. Wycliff Siocha Gesongori:** Yes, it was.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Did Dennis tell you that there was no time when he had a conversation between himself and Dr. Monda?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He told you he had no conversation?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, did it occur to you to talk to the father of Dennis, or it would not be convenient to the case you had been told to move?

**Hon. Wycliff Siocha Gesongori:** No, I did not reach out to him, because all the material that I needed to prosecute the Motion was provided to me by one Dennis Misati. So, I saw no need at all to reach out.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The instructions I have is that the funeral of your aunt was on the 12<sup>th</sup> of May, 2023. Do you contest that?

**Hon. Wycliff Siocha Gesongori:** I may not be able to contest that.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Having done the funeral on 12<sup>th</sup> of May, what business did you have, receiving money from Dr. Monda on the 29<sup>th</sup> of May, 28<sup>th</sup> May and 7<sup>th</sup> of May?

**Hon. Wycliff Siocha Gesongori:** This was a commitment from the Deputy Governor. When I was escorting him to the car, he said that he was to send something in regard to---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you. I had to say that.

**Hon. Wycliff Siocha Gesongori:** There is nowhere I called or did a message soliciting for any money from him. It was for that purpose.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you played a clip to show us how Dr. Monda attended the funeral?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is that story of him intending to send you money afterwards for the children in that clip?

**Hon. Wycliff Siocha Gesongori:** It was not in the public domain, but it was part of the conversation we had as I was escorting to the car.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay.

Thank you, Mr. Temporary Speaker, Sir. Please give me two or three minutes with my---

**The Temporary Speaker** (Sen. Wakili Sigei): You still have two minutes or so. So, you can conclude.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you, Mr. Temporary Speaker, Sir. I have been unlucky. I have not had enough good time. I will try to limit, but I will beg that you possibly give me five minutes. I will be very specific.

**The Temporary Speaker** (Sen. Wakili Sigei): Your time is two minutes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Hon. Siocha, there are many governance issues in Kisii County. Is that correct? There are many disputes and fights and you have heard Sen. Cherarkey speak of fights in funerals. Are there many governance issues in Kisii? Kuna vita Kisii kwetu. Is that correct? My time is running.

**Hon. Wycliff Siocha Gesongori:** It is not correct.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is it true that this Motion is before the Senate because there are disputes about governance in Kisii between the deputy governor and the governor?

**Hon. Wycliff Siocha Gesongori:** I am the Mover.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is it because of the governance issues?

**Hon. Wycliff Siocha Gesongori:** Not at all and nowhere does that find its way in this Motion.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are you aware that the Deputy Governor has been uncomfortable with the Governor conducting government business in the House? Yes, or no?

**Hon. Wycliff Siocha Gesongori:** I am not aware because I do not work in the executive.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are you aware that the absorption of the Kisii budget is at two percent, No. 47 of 47 in Kenya?

**Hon. Wycliff Siocha Gesongori:** Unless you want me to expound me on your questions.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Yes, or no? I do not have the time.

**Hon. Wycliff Siocha Gesongori:** As the Chair of Implementation, that is not the position.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Which office does the governor operate from?

**Hon. Wycliff Siocha Gesongori:** He operates from the stadium.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are you aware that he meets even central government delegations from his house at Motonto, called Shakahola?

**Hon. Wycliff Siocha Gesongori:** That is not unique because all of us receive visitors and delegations in our homes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are you aware that the budget that was passed by the Kisii County Government was altered somewhere and this is a complaint?

**Hon. Wycliff Siocha Gesongori:** There is no material fact on that so I cannot confirm. I participated in the process, and I stand at a better position to give information on that. However, let us not divert.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is it true and the deputy governor's case is that these small disputes are the ones that have caused this Motion to be here?

**Hon. Wycliff Siocha Gesongori:** Are you trying to inform this Senate that it is those disputes that made the deputy governor Dr. Monda, to go and solicit a bribe from one Dennis Misati?

**The Counsel for the Deputy** (Mr. Kelvin Michuki): I do not have time and I do not want to be called for time. Let me ask my last question.

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel, your time is up.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Temporary Speaker, Sir, allow me to ask one last question on public participation and the bursaries.

Are you aware of the County Bursary Fund Committee and the Ward Bursary Fund Committee and whether you are aware that in Kisii, because you are a Member of the County Assembly (MCA), that no one has ever gotten more than Kshs5,000 from the County bursaries? Someone---

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel, your time is up. Mr. Witness, answer that question.

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, we have grounds especially for students who come from poor and extremely needy backgrounds. They usually get more than the Kshs5,000. There are others equally on full scholarships.

**The Temporary Speaker** (Sen. Wakili Sigei): Very well. Mr. Ndegwa.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Temporary Speaker, Sir, for the opportunity for re-examination. I do not want to shoot in the dark as it has been and experienced. Mr. Witness, what has brought us here?

Is it the issue of the governor and the wrangles they could be having or not having or the question of the conduct of the deputy governor?

**Hon. Wycliff Siocha Gesongori:** It is the question of the conduct of the deputy governor.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is it befitting a governor?

**Hon. Wycliff Siocha Gesongori:** It is not befitting a governor.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Does it befit a public or a state officer?

**Hon. Wycliff Siocha Gesongori:** It does not befit a public officer.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Allow me to take you to page 123---

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, I need to know the time you will take for your re-exam.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, I am almost done. Five minutes will suffice.

We begin at page 122, hon. Senators. You will see where we have one hon. Henry Moracha moving a Motion for adjournment. He subsequently makes submissions and guidance at page 123, the last paragraph which begins by:

“I hereby beg to move the Motion of adjournment to allow the people of Kisii County give their views by way of public participation, either by way of memoranda, questionnaires or any other manner suitable to the Clerk.”

Are the clips that you have played there contemplated as one of the manners of giving evidence?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who conducts public participation? Is it the County Assembly or the office of the governor?

**Hon. Wycliff Siocha Gesongori:** It is the County Assembly.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is the office of the governor involved in the oversight works of the County Assembly?

**Hon. Wycliff Siocha Gesongori:** Absolutely not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was the governor involved in these processes?

**Hon. Wycliff Siocha Gesongori:** He was not involved.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Will I therefore be right to say that the defence has formulated their own case to which they are answering to and hence the question on the issues of the budget?

**Hon. Wycliff Siocha:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Are those issues on trial before this Senate?

**Hon. Wycliff Siocha Gesongori:** They are not on trial before the Senate.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was the defense served with the public participation report?

**Hon. Wycliff Siocha Gesongori:** It was served upon request by the deputy governor.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Would you therefore request the Members of the Senate to look at page 179 of the bundle of documents, Volume I which bears the Hansard for the 29<sup>th</sup>?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Are you seeing where the Speaker is saying-

“So, I have ordered the Clerk that we are going to give him all the evidence of public participation.”

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you witness this service at the County Assembly?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Finally, have you looked at the defence that has been brought forth by the deputy governor?

**Hon. Wycliff Siocha Gesongori:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Has he answered in his affidavit or refuted the clips that you have played?

**Hon. Wycliff Siocha Gesongori:** He has not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Has he answered to them?

**Hon. Wycliff Siocha Gesongori:** He has not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Has he disputed those allegations?

**Hon. Wycliff Siocha Gesongori:** He has not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Has he brought his clips to countenance to what we have brought forth?

**Hon. Wycliff Siocha Gesongori:** He has not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It has been put to you that there are no members of the public who participated. Would you like to play Clip No. 1?

**Hon. Wycliff Siocha Gesongori:** I would wish, and I seek the indulgence of the Temporary Speaker that clip No. 1 be played.

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel, I gave you five minutes. You have two minutes and that will eat into your time.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, I am done, and I am most obliged. Clip No. 1 and I am off.

As we proceed, where is the office of the deputy governor situated?

**Hon. Wycliff Siocha Gesongori:** It is situated at Gusii Stadium.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, they share the Gusii Stadium?

**Hon. Wycliff Siocha Gesongori:** Yes, they share. There is the office of the governor and that of the deputy governor.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What is the reason?

**Hon. Wycliff Siocha Gesongori:** Currently, the official office of the governor is under renovation.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Clip No. 1

*(A Video clip was played)*

That is enough. The only thing I want you to identify in that clip is where the venue is.

**Hon. Wycliff Siocha Gesongori:** That was at the Kiamokama office of the MCA.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you have any role to play in the production of those clips?

**Hon. Wycliff Siocha Gesongori:** I did not have any role to play.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who produced those clips?

**Hon. Wycliff Siocha Gesongori:** It was the Hansard and the Communication Department for the Kisii County Assembly.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Temporary Speaker, Sir, I yield the witness to the hon. Senators.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, hon. Members. In the interest of time, I will limit the number of Members that we will allow for clarification, to four.

I will start with Sen. Joe Nyutu. The time you can take is two minutes maximum.

**Sen. Joe Nyutu:** Thank you, Mr. Temporary Speaker, Sir. I will spend less than the two minutes you have given me. I need clarification from the witness and his side. Who commands the County Enforcement Officers in Kisii County? I ask that because there is an allegation that the deputy governor has been misusing these particular officers.

Number two, the Deputy Governor has been accused, and we have viewed several videos, of soliciting for bribes for him to influence the issuance of bursaries in the County. So, would the witness tell this House, what role the Deputy Governor plays in the giving of bursaries in Kisii County?

Apart from the video that has been played for the second time, we observed that the other clips that were playing showed people, but did not show other attendees of the public participation function. That is one thing that we would want the witness to clarify.

If you would allow me to ask---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Joe Nyutu, you have asked three questions. Kindly take your seat.

**Sen. Joe Nyutu:** Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Kindly respond to those questions.

**Hon. Wycliff Siocha Gesongori:** The person who commands the enforcement officers at the Kisii County Government is the Director in charge of enforcement. The second question was on the issue surrounding the County bursary.

For purposes of record and to inform this hon. House, we have a special kitty for scholarship where the needy, especially those who come from challenged financial backgrounds, are identified and then forwarded for purposes of being given scholarships. The scholarships are offered by the office of the governor and the deputy governor is involved in the process.

The last one was that most of the clips played did not show the backgrounds. Maybe, the Hansard and Communication Department of Kisii County Assembly was mainly focusing on the speakers and forgot to also focus on the background.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. Sifuna.

**Sen. Sifuna:** Mr. Speaker, Sir, allow me to get some clarity from the Counsel for the defense. Other than the date on page 137, which is the HANSARD Report, is the contention of the defense, the Counsel for governor, that this document is not a true reflection of what happened in the Assembly on 29<sup>th</sup> February, 2024.

Secondly, on the same document, I can see references at page 211 and 217 to Mr. Katwa Kigen, the same lawyer appearing before us. If he was present in the House, he can clear up. I want to ask him one thing. He has told us here that the evidence of a known gambler: somebody who participates in sports betting, is something to be taken with circumspection.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Sifuna---

**Sen. Sifuna:** Let me put the question.

**The Temporary Speaker** (Sen. Wakili Sigei): Yes.

**Sen. Sifuna:** I am at page 217 of the HANSARD. I want to know if it is true that this is what Mr. Katwa Kigen said. There is a paragraph at the top there, where he says or is reported to have been saying, "Hon. Members, I pray that you do take this view that a question of bribery is a question of choosing who to believe. Do you want to believe a 68 years old retired man who has been friends with Dr. Monda for 32 years and saying this is not a bribe or a young gentleman who is saying it is a bribe?" I want Mr. Katwa Kigen to clarify whether indeed the evidence of a young man should also be taken with the same circumspection that he claims evidence from a gambler should be taken.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Senior Counsel, Mr. Katwa Kigen, respond to those questions by Sen. Sifuna.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, my point is that the HANSARD has been manipulated. It is not an accurate representation of what happened in terms of--- If the events resulting the adjournment were events of 21<sup>st</sup> which should be the actual date, why would the report be headed the date of the argument, the defense and the voting when it did not happen on that date?

All I am saying is that when you look at that HANSARD, it should enrich our argument that there is a certain strong force within the Assembly, incorporating my good friend, Hon. Siocha, who are very determined to have the deputy governor impeached

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and are prepared to manage the Hansard. This is because the HANSARD is supposed to speak for itself. It is not supposed to be a document that you would come and say that it has typographical errors. We have concerns about the way the HANSARD was reported and that is part of the malice against the Deputy Governor.

On the issue of the arguments, I made at page 217; I stand by them and I intend to make the same arguments at the end of these proceedings. I will say that here is Mr. and Mrs Misati. Mr. Misati is 68 years old and his son is 37 years old. This is not a case where anybody is coming to say there was money, a forgery of a document---

This is not documentary evidence, but a question of one word against the other. What I have been trying to tell the Assembly and will be requesting this Senate to do is to see the extent to which this case entirely rests on and whom to believe. We will pray that you choose to believe the father who is 68 years old together with his wife, *vis-a-vis* what the son is saying. More so, when it is aggravated by the point where the son says he was not present when the discussions were had and cannot say for a fact whether or not the money was discussed as being a bribe or a refund.

**The Temporary Speaker** (Sen. Wakili Sigei): Very well, you have answered the question.

Proceed, Sen. Orwoba.

**Sen. Orwoba:** Thank you, Mr. Temporary Speaker. I need clarification from the Senior Counsel. He has spoken about manipulation of the Hansard and on separate references, he has put out a case that a procedure that should have been followed in the County Assembly was not followed.

The clarification I am seeking is; as Senators, today, are we here to listen to the technicalities that were not followed in the County Assembly or are we to execute the charges? I am asking this because if you go to the rules in our Standing Orders on impeachment, Rule 12---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Orwoba, ask your question.

**Sen. Orwoba:** My question is in respect that we are according to the institutions. I want the Senior Counsel to clarify if, indeed, the argument is that the process was or was not followed in the County Assembly then what does he expect from the Senate? Does he want us to stop prosecuting the matter based on a technicality that he wants to highlight?

We spent a long time on that issue and I wonder whether he is arguing on the process so that we can stop the impeachment. Otherwise, I do not see it relevant.

**The Temporary Speaker** (Sen. Wakili Sigei): The question is made. Proceed, Mr. Katwa.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is our case, for the Deputy Governor, that the procedure set and put in place were intended to safeguard the rights of the subject of impeachment. The law having set it like that and to the extent that the County Assembly has no explanation why they were operating out of time, why they did not serve him on time and why the notice did not have particulars. To the extent that they have no reason, this impeachment should be deemed by this Senate to be invalid and disallowed.



It is my view that in previous writings, it has been stated that if the impeachment already stands outside time, it is invalid and should be thrown away. I will be praying that you should not look at it as a question of technicality but a question of substantive justice.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Beth Syengo you want to seek any clarification.

**Sen. Beth Syengo:** Thank you, Temporary Mr. Speaker, Sir. I want to seek clarification from the counsel. When he was asking about the clips that were played on the audience, in public meetings, when a speaker is making a speech, is it usual to focus on the audience or the speaker?

When I looked at Mama Wamutura speaking, she was speaking from her heart, because this is something that is hurting her. When I see a woman getting emotional---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Beth, your question is made.

**Sen. Beth Syengo:** Thank you, Mr. Temporary Speaker, Sir. Allow me to raise the second concern. Who runs the Governor's Bursary Fund and what is the role of the deputy governor in it?

Thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): The first question is directed to Senior Counsel Katwa Kigen. The second is to the witness.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is our argument that the clips were manipulated. They were not products of public participation. If it was a product of public participation, you would definitely see people in the background. If it was intended to communicate to this Senate that, indeed, members of the public made contributions to this subject of the impeachment, then surely it should have been possible to see members of the public.

Hon. Senators, I said there are about seven clips. About five of them are of a single individual who has nobody in the background.

One of the exceptions is the one clip that the honourable Member has invited me to. It has about two people. It has nothing more than that. We still contend that that clip came much after.

Lastly, if you look at pages 21 to 54, the public participation report in the County Assembly report, there is nowhere where they said the clips were done. The clip came through the letter on Page 356 of Mr. Ndegwa's letter, where they introduced the clips much after and outside the public participation. It has no relationship with public participation.

Thank you, Hon. Senators.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Katwa Kigen. Mr. Wycliffe, respond to the second question by Sen. Syengo.

**Hon. Wycliff Siocha Gesongori:** Mr. Temporary Speaker, Sir, there is a special program domiciled in the office of the governor. The question that the hon. Senator asked; who was responsible? It is the office of the governor.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you very much. Honorable Members, I had directed that I will only allow a maximum of four members to seek

clarifications. You note that this is a time-bound proceeding that must be prosecuted between now and the close of business tomorrow.

So, I will close at that so that we progress to the next witness.

Mr. Ndegwa

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you for the kind permission to seek your directions. On whether it is proper for the Senior Counsel to impute improper motive, I did introduce the clips well knowing that I am only executing the functions of an advocate representing a client.

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Ndegwa, remember a ruling was made earlier on regarding the objections that both parties had raised with regard to evidence and additional information that could not have been or could have been. That ruling was read in your presence. Allow this House to deal with them at an appropriate time.

Thank you.

You are discharged. Honourable member, call upon your next witness so that we also guide with regards to time.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, our next witness is a lady who goes by the name of Lucy Wahito; the diligent Public Officer.

*(The Witness for the County Assembly (Ms. Lucy Wahito)  
was ushered into the Chamber)*

**The Temporary Speaker** (Sen. Wakili Sigei): As Lucy is brought to the witness stand, how much time do you intend to spend?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, I will take similar time; 30 minutes will suffice.

**The Temporary Speaker** (Sen. Wakili Sigei): So we will take 30 minutes for the exam in chief. We will do 20 minutes for cross-examination.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We are most obliged. My learned friend, Mr. Mwangi will take the witness.

**The Temporary Speaker** (Sen. Wakili Sigei): For purposes of time and planning as well, how many more witnesses do you plan to call?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We have two more witnesses.

**The Temporary Speaker** (Sen. Wakili Sigei): Two more witnesses apart from Lucy?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Very well. You can swear her.

*(Ms. Lucy Wahito took the Oath)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Good evening, Lucy.

**Ms. Lucy Wahito:** Good evening to you.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Welcome to this session. Lucy, you have sworn an affidavit dated the 8th of March, 2024.

**Ms. Lucy Wahito:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am referring the witness to the affidavit on page 263 of the County Assembly bundle. Page 263, Volume One of the County Assembly bundle.

Lucy, where do you work?

**Ms. Lucy Wahito:** Sorry?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where do you work, Lucy?

**Ms. Lucy Wahito:** I work for Gusii Water Sanitation Company.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What is your designation?

**Ms. Lucy Wahito:** My designation is the Managing Director.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): In brief, what is GWASCO, for honourable Members to understand?

**Ms. Lucy Wahito:** GWASCO stands for Gusii Water and Sanitation Company. It is a company that was registered way back in 2006 under the Company's Act. It is jointly owned by Kisii and Nyamira County. Its mandate is to provide water and sanitation services in both counties.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Are you a member of the board?

**Ms. Lucy Wahito:** Yes, I am a member of the Board by virtue of the office I hold.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What are the functions of the board?

**Ms. Lucy Wahito:** The function of the Board of Directors of Gusii Water and Sanitation Company is to provide strategic leadership and oversight. Number two is to recruit the core management team. They are also supposed to ensure they protect the rights of the shareholders and the stakeholders. They are also supposed to approve the annual budgets and policies. Being the supreme organ of the Company, it is the main decision-maker.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, in the month of April 2023, the Board advertised for four positions. What were they for recruitment?

**Ms. Lucy Wahito:** Yes, on 14th April 2023, the Board advertised for four positions; Commercial Manager, Internal Auditor, Human Resource Manager, and Procurement Manager.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You have attached to your affidavit a copy of the advertisement by way of inviting applications.

**Ms. Lucy Wahito:** Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, do you recall what took place prior to shortlisting?

**Ms. Lucy Wahito:** Yes, before shortlisting, I recall I was summoned by His Excellency, the Deputy Governor, Hon. (Dr) Robert Monda. I visited his office. Out of the various discussions that we had in matters to do with water, he told me that he had an interest in one of the positions that we advertised in the newspaper for the Commercial Manager. He had a candidate of preference, and therefore he told me to consider that case.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did he also mention the name of the person whom he wanted your assistance on?

**Ms. Lucy Wahito:** Yes, he mentioned the name, the candidate being Mr. Dennis Misati.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you discuss anything else in that meeting where you were summoned?

**Ms. Lucy Wahito:** It was a brief discussion. He told me about other matters that we shall be able to discuss later.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, following the shortlisting, when did you conduct your interviews?

**Ms. Lucy Wahito:** Mr. Temporary Speaker, Sir, the adverts were done on 14th April. The applications were supposed to be closed on 28th April. After that, the board hired an independent consultant to do the shortlisting on behalf of the company.

The shortlisting was submitted on 15<sup>th</sup> May, 2023, and the candidates were invited on 17<sup>th</sup> May, 2023. The interviews were conducted on 25<sup>th</sup> and 26<sup>th</sup> May, 2023.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): After the 26<sup>th</sup> May, 2023, after the interviews, what happened on the 28<sup>th</sup> May, 2023, at 9:24 p.m?

**Ms. Lucy Wahito:** I recall on 28<sup>th</sup> May, 2023 that was on a Sunday at 9:24 p.m., and 13 seconds, I received Kshs100,000 in my M-pesa line, that 0724616288 from His Excellency, hon. (Dr.) Robert Monda.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How did you know that the money was from hon. (Dr.) Monda?

**Ms. Lucy Wahito:** I have his number on my phone.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Have you attached your M-pesa statement to that effect?

**Ms. Lucy Wahito:** Yes. I have attached.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Hon. Members, I am referring the witness to page 277 of volume one of the County Assembly bundles. Are you there Ms. Lucy? Is this your M-Pesa Statement?

**Ms. Lucy Wahito:** Yes. This is my M-pesa statement.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You received money from His Excellency, hon. (Dr.) Monda on the 30<sup>th</sup>. Is that correct?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is his defence that this money was sent to you by mistake. Before I take you there, what happened after

receiving the money? Did you call him immediately, or were you perplexed that you received the money?

**Ms. Lucy Wahito:** I received the money at 21:24 and at that time I could not do anything. However, the following day on Monday morning, I called His Excellency, Hon. (Dr.) Robert Moda, I inquired what the money was supposed to be for, and he reminded me of the conversation that we had earlier on in regard to the case that he wanted to be considered in the company of assisting one Mr. Dennis Misati.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Is this the conversation you had with His Excellency, hon. (Dr.) Robert Monda, in his office, when he summoned you?

**Ms. Lucy Wahito:** When he summoned me, he told me other details would follow later.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** So, what does it mean by, ‘other details will follow later’, to you?

**Ms. Lucy Wahito:** When I got the money, I connected the dots and I thought maybe that was what he meant, “Other details will follow later.”

So, when we talked that morning, I told him that if the young man is qualified, he shall be considered. Therefore, there was no need to try to influence him. I told him to reverse back the money that he had sent to my phone.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** You told him to reverse back on the 29<sup>th</sup> morning, correct?

**Ms. Lucy Wahito:** Yes. It was on the 29<sup>th</sup> morning.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** In your experience, how long does it take to reverse a transaction?

**Ms. Lucy Wahito:** Often times, once you reverse, it will take about, it is about 24 hours.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Did His Excellency, the deputy governor reverse the transaction?

**Ms. Lucy Wahito:** It was not reversed.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** On the 29<sup>th</sup> after you spoke to him.

**Ms. Lucy Wahito:** Yes, it was not reversed on the 29<sup>th</sup>.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** What step did you take following his refusal to reverse the money?

**Ms. Lucy Wahito:** On the 30<sup>th</sup> I waited for him to reverse but when it did not happen on the 30<sup>th</sup> at 4, I returned that money.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Why did you take that span, from the 29<sup>th</sup> to the 30<sup>th</sup> to reverse the money? Please tell us why you reversed the money or returned the money to His Excellency the deputy governor on the 30<sup>th</sup> and not the 29<sup>th</sup>

**Ms. Lucy Wahito:** Mr. Temporary Speaker, Sir, I did that because I expected that if it was erroneously sent, there would be a message that we are supposed to send to Safaricom No.456, and it is supposed to notify the sender immediately they initiate the

reversal of the money, and that can take a long. I, Therefore, expected to receive that message from my end, and that is why it took me 24 hours to wait.

Again, you realize on that Monday I was in transit. So, I reversed that money in the evening after taking the whole day waiting to see whether I would be able to see the message of a reversal.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, it is your evidence that there was a possibility that he could reverse the money while you also sent back the money.

**Ms. Lucy Wahito:** Chances were.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I take you to your M-pesa Statement, Ms. Lucy, there has been--- By the way, Ms. Lucy, were you expecting that money?

**Ms. Lucy Wahito:** I was not expecting any money.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I take you to the M-pesa statement. There has been a pronouncement by learned Senior Counsel, that you receive the money and utilized it.

On your M-pesa statement on page 277 of the County Assembly bundle, can you kindly explain the transactions following the receipt of the money and until the 30<sup>th</sup> May, 2023, when you returned the money to His Excellency, the Deputy Governor?

**Ms. Lucy Wahito:** Mr. Temporary Speaker, Sir, from my statement, I received money from His Excellency, Hon. (Dr.) Robert Monda on 21:24:13, that was at night.

The following day, on the 29<sup>th</sup>, at 10:48, I sent my employee Kshs5,000. On the same day, that is 11:06 on the 29<sup>th</sup>, I withdrew from my equity bank account Kshs5,000 to have the same back in my M-Pesa.

On 29<sup>th</sup> May, 2023 at 14:14:18, that was around two, I withdrew from my cooperative bank, 30,000. I was going to a meeting and I sent the same amount of Kshs28,000 on the 29<sup>th</sup> at 14:18, the same, I sent to the ticketing company Kshs28,000. Therefore, my account had a balance of Kshs103,000. The same day when I was in transit, I had a person to whom, I made a transaction of Kshs6,000 which gave me a balance of Kshsh97,299.

Seemingly, Mr. Temporary Speaker, Sir, I did not utilize the funds that were in my account and that is where I would get money from my bank statement. If you look through that Statement on 30<sup>th</sup> May, 2023, at 6:21, I was at the Kenya Airports Authority (KPA). I paid Kshs100 for the car park very early in the morning because I was taking a flight. Then, once I was done with the meeting of the day. Later at 4:15 p.m., on the 30<sup>th</sup> May, 2023. I returned that money of the Kshs100,000.

Mr. Temporary Speaker, Sir, I never spent the money that had been sent on my phone.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, Ms. Lucy, do you also enjoy the services of Fuliza by Safaricom?

**Ms. Lucy Wahito:** Yes. I do. I have a limit of Kshs5,000.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you also top it up to---

**Ms. Lucy Wahito:** Yes. My Fuliza is more like money in my account.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Ms. Lucy, the deputy governor, largely speaks in his HANSARD at the County Assembly, at page 191 of the County Assembly bundle, paragraph 3. Kindly read the paragraph that begins with the word, "I confirm.

**Ms. Lucy Wahito:** Mr. Temporary Speaker, it reads-

"I confirmed to have sent her the money mistakenly and told her that I intended to send money to a different person, Ms. Gladys Aming'a. She continued to tell me that she was at the airport, traveling to attend a meeting in Nairobi. She then inquired if it was possible for me to reverse the money. I told her I would try since I had never reversed money on an M-Pesa platform. I attempted, but I was not successful. I urge her to reverse it.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Ms. Wahito, kindly stop there. The Deputy Governor says he attempted, correct?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Does that mean he intentionally sent the money to you and refused to reverse back?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Finally, was the candidate that the Deputy Governor wanted assistance successful?

**Ms. Lucy Wahito:** He was not successful.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What number was he in the---

**Ms. Lucy Wahito:** After the interviews, he was at a distant fifth.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, and hon. Members, I cede the witness for cross-examination. Lucy, you will be asked questions by my learned senior. Remain calm and answer the questions.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Good evening, Lucy.

**Ms. Lucy Wahito:** Good evening to you Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Counsel Katwa.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Kindly take note of your time. Considering the way the examination has gone, I believe you will deal with cross-examination within the time you have been allocated.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, I will try my level best.

Your testimony is contained in the bundle that you have produced before this assembly. Hon. Members, I am referring to the affidavit at page 263-265, particularly page 264. Lucy, do you have it?

**The Temporary Speaker** (Sen. Wakili Sigei): Mr. Katwa, kindly guide Members on the volume you are making reference to.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My apologies. It is the bundle from the County Assembly, Volume 1, Paragraph 11. That is the last paragraph on page 264.

In that paragraph, you have stated that in the morning of 29<sup>th</sup>. You called the deputy governor, His Excellency Dr. Monda, and asked what the money he had sent was meant for. From the telephone conversation, he reminded you of the previous request on assistance in the recruitment of his preferred candidate, one Dennis Mokaya. You declined to be influenced and asked him to reverse the money. That is what you have said in that paragraph?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Since this process started, has that always been your position that indeed he told you what the money was for?

**Ms. Lucy Wahito:** It has been my position.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Even as way back as 8<sup>th</sup> February, 2023?

**Ms. Lucy Wahito:** On that date, I had made a statement which was slightly different to this. I did not know it would get---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Lucy, kindly answer my question. Is the position you have taken at Paragraph 11 the same position you have always held since 8<sup>th</sup> February?

**Ms. Lucy Wahito:** That has been the position.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Let us look at what you said on 8<sup>th</sup> February. I am referring to the deputy governors report on page 26. That is your statement, is it not? Are you there? Not this bundle but the other one.

**Ms. Lucy Wahito:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In the third paragraph from the top, you stated that on the morning of 29<sup>th</sup>, you called the deputy governor. This is the same call you are referring to at Paragraph 11 of your affidavit, is it not?

**Ms. Lucy Wahito:** This is not an affidavit. It was a statement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Pardon?

**Ms. Lucy Wahito:** This was a statement I had made that I swore an affidavit to state the facts.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Which question are you answering?

**Ms. Lucy Wahito:** The one on page 27.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am asking that on Paragraph 11 of your affidavit, you have stated that you made a call on 29<sup>th</sup>.

**Ms. Lucy Wahito:** Mr. Temporary Speaker, Sir, for the purpose of this Senate---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Kindly answer my question. At page 264 of the County Government bundle, in Paragraph 11, you said you made a call to the Deputy Governor on 29<sup>th</sup>?



**Ms. Lucy Wahito:** Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is this the same call you are referring to in your statement?

**Ms. Lucy Wahito:** It is the same call.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You proceed to say, 'I called the deputy governor and asked him what the money was for. On the 8<sup>th</sup> of February, he answered you. What do you say?'

**Ms. Lucy Wahito:** In that statement, I said he kept quiet.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You saw the defense that the deputy governor made in the county assembly?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You know that he made a big issue of the point that when you called him, he did not say the money was a bribe, rather he kept quiet. He took advantage of the point you made in the statement.

**Ms. Lucy Wahito:** Mr. Temporary Speaker, Sir, I wish to clarify that I have sworn an affidavit and that is what I will stick with.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Ms. Lucy, we are not competing. I am asking you questions.

**The Temporary Speaker** (Sen. Wakili Sigei): Madam Lucy, I will guide you. Answer the question in the interest of time as when you have been asked. If you do not know the answer give a direct 'No' or 'Yes'. We will not entertain arguments.

**Ms. Lucy Wahito:** Thank you, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Ms. Lucy, what I am saying is, you saw that the speaker took advantage of the point you made that he kept quiet and said the effect of that is that indeed he did not tell you that it had anything to do with employment. Did you see that in his defense at the county assembly?

**Ms. Lucy Wahito:** Yes, I saw.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You then went back and swore an affidavit on 8<sup>th</sup> March, after the impeachment decision of 29<sup>th</sup>.

**Ms. Lucy Wahito:** Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In the new affidavit, you have changed the content of the conversation with the governor. The content of your conversation with the governor on the 29<sup>th</sup> has changed.

**Ms. Lucy Wahito:** It did not change.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On the 8<sup>th</sup> of March when you are swearing the affidavit did you say that he kept quiet?

**Ms. Lucy Wahito:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, you are saying that he told you something?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. You want this assembly to believe which affidavit, the one which you maliciously want to paint the

governor negatively on page 264 on the 8<sup>th</sup> of March or the one you said he kept quiet on the 8<sup>th</sup> of February?

**Ms. Lucy Wahito:** The sworn-in affidavit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You agree the statement that is on page 27 is yours?

**Ms. Lucy Wahito:** I agree.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, let us now talk about the M-pesa you received. You said you received the M-pesa on the 28<sup>th</sup>. It is true that after you received the M-pesa you did not call him until the next day.

**Ms. Lucy Wahito:** Yes, it was late in the night.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You did not call him the same day?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How long did it take you to see the Mpesa entry?

**Ms. Lucy Wahito:** I saw it immediately.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Sorry.

**Ms. Lucy Wahito:** I saw the M-pesa on 28<sup>th</sup> May, 2023 at 2124hrs.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You saw it just around the time he had sent it.

**Ms. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Why did you not call him when you saw it?

**Ms. Lucy Wahito:** The time was 2124hrs and I would not have called His Excellency at that particular time.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He had just sent you the money.

**Ms. Lucy Wahito:** Yes, he had just sent the money.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): But you chose not to call him at that time until the next day on the 29<sup>th</sup>.

**Ms. Lucy Wahito:** Yes, I did not call that night

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): May I ask you, what time did you call him on the 29<sup>th</sup>?

**Ms. Lucy Wahito:** I called him in the morning.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What time?

**Ms. Lucy Wahito:** Around 8.09 a.m.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): According to you, you suggest to him to reverse the amount.

**Ms. Lucy Wahito:** I inquired about the purpose of the money.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then you told him to reverse?

**Ms. Lucy Wahito:** After he reminded me what it was meant for I requested him to reverse.

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you requested him to reverse it, you could have sent it back.

**Ms. Lucy Wahito:** Sorry.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You could have sent back the money on the 29th.

**Ms. Lucy Wahito:** Yes, I could have.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You could have but did not. Let us look at your Mpesa at page 277. So, you say you called in between eight and nine. That is what you said?

**Mrs. Lucy Wahito:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is true that at 10 o'clock, you used that money from him, is it?

**Ms. Lucy Wahito:** The amount in my M-pesa statement was Kshs101, 459. I spent Kshs5 ,000 at 1048hrs and at 1106 hrs, I transferred Kshs5 ,000 from my M-pesa account.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I will ask you the question again. Is it true that whereas you said you called him between 8.00 and 9.00 o'clock, you actually spent the money that he had sent to you at 1048 hrs?

**Ms. Lucy Wahito:** I cannot say that I spent the money that he sent to me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us look at it. You received from him Kshs100, 000, on the 28<sup>th</sup>?

**Ms. Lucy Wahito:** I agree.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And your balance comes to Kshs101, --- is it?

**Mrs. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And when you spend the KShs5,000 at 10 o'clock, your money reduces to Kshs96 ,000, is it?

**Ms. Lucy Wahito:** I have a Fuliza limit of Kshs5,000, so I can spend.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I will ask you again. It is true that when you spend the money from Dr. Monda at 10 o'clock, your balance came to Kshs96 ,000 on the face of the Mpesa report.

**Ms. Lucy Wahito:** Yes, I spent Kshs5 ,000, but I want to clarify that I have a Fuliza limit of Kshs5 ,000.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): After you had spent the Kshs5 ,000, the consequence was that even if you wanted to reverse it, it would not have been possible, is it? The limit was already below.

**Ms. Lucy Wahito:** Now that I had requested him to reverse, I would not have reversed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No, I am saying, by 10 O 'clock, the amount you have on your Mpesa is less than the Kshs100 ,000 you are telling him to reverse?

**Ms. Lucy Wahito:** Yes, Mr. Speaker, Sir. By 1048hrs, I had Kshs96, 404. At 1106hrs, I had Kshs101, 464.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Mrs. Lucy, again I will remind you I am the one asking you questions. It is also true that between 1528hrs and 1815hrs, your balance is less than Kshs100 ,000, is it?

**Ms. Lucy Wahito:** Come again?

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Between 1528hrs and 1815hrs, the balance in your account is less than Kshs100 ,000. Is it?

**Mrs. Lucy Wahito:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Now, you said the interviews were conducted on the 15<sup>th</sup>. Is it?

**Ms. Lucy Wahito:** The interviews were conducted on 25<sup>th</sup> May and 26<sup>th</sup> May 2023.

*[The Temporary Speaker (Sen. Wakili Sigei) left the Chair]*

*[The Temporary Speaker (Sen. Veronica Maina) in the Chair]*

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Sorry, when were the interviews conducted?

**Ms. Lucy Wahito:** They were conducted on 25<sup>th</sup> May and 26<sup>th</sup> May 2023.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Can you look at page 27 of the Deputy Governor's bundle? Are you at page 27 of the deputy governor's bundle, hon. Members? It is the first paragraph at page 27.

You said, after receiving applications from interested persons, the Board shortlisted seven candidates for the post of Commercial Manager and invited them for interviews on 15<sup>th</sup> May, 2023. According to the statement that you wrote on 8<sup>th</sup> February, when were the interviews done?

**Ms. Lucy Wahito:** On 28<sup>th</sup> and 26<sup>th</sup> May, 2023.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Is that what you have said in your statement of 8<sup>th</sup>?

**Ms. Lucy Wahito:** This was invitation, that is when they were sent for messages.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Could you read it yourself Lucy?

**Ms. Lucy Wahito:** They were invited for interview, ---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Just read that first sentence.

**Ms. Lucy Wahito:** After receiving applications from interested persons, the board shortlisted seven candidates for the post of Commercial Manager and invited them for interviews on 15<sup>th</sup> May, 2023.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Invited them for interviews on 15<sup>th</sup> May, 2023. Do you want the Senators to understand that when you said that, you did not mean that they come for interviews on 15<sup>th</sup> May?

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**Ms. Lucy Wahito:** Exactly, yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. What do you think of the Senators? To when do you now want to change this that the interviews were done?

**Ms. Lucy Wahito:** On the 25<sup>th</sup> and 26<sup>th</sup>, May 2023.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you show us anywhere where you have adjusted that statement, that the interviews that were to be held on 15<sup>th</sup> of May, were instead to be held on the 25<sup>th</sup> or 26<sup>th</sup>? Is there anywhere, either in the statement at page 27 of the deputy governor's bundle or page 264 of the County Assembly bundle, where you adjusted the date from 15<sup>th</sup> to 25<sup>th</sup>?

**Ms. Lucy Wahito:** There is nowhere.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have not done that. It is something that you prepared for in the break to change the date, is it not?

**Ms. Lucy Wahito:** Not really.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You said that the entity where you are the CEO, is constituted of a board, is it not?

**Ms. Lucy Wahito:** Exactly, Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How do you determine the best candidate?

**Ms. Lucy Wahito:** They are ranked.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In fact, they are scored by each of the board members individually, is it not?

**Ms. Lucy Wahito:** Exactly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): For purposes of an argument, if it were to be that the interviews were done on 15<sup>th</sup> of May, or alternatively, even if we were to say it was done on the 25<sup>th</sup> or 26<sup>th</sup>, the best candidate would be determined by aggregation of the scores by each of the board members, is it not?

**Ms. Lucy Wahito:** Yes.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have five minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Madam Temporary Speaker.

In that scenario Ms. Lucy, the situation would be that if hon. (Dr.) Robert Monda actually wanted---

First, the board members are appointed by the Office of the governor, is it not?

**Ms. Lucy Wahito:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How are they appointed?

**Ms. Lucy Wahito:** The Board of Gusii Water and Sewerage Company (GWASCO) has ten members. Five were recruited competitively and five were ex-officio members by virtue of the positions they hold.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And who determines who is to be in the board?

**Ms. Lucy Wahito:** The independent members are appointed by the shareholders.  
**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And the shareholders are Nyamira and Gusii County, is it not?

**Ms. Lucy Wahito:** Exactly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The executive of both would be the governor, is it not?

**Ms. Lucy Wahito:** The CECM for Finance and Water for both counties.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And ultimately the governor, is it not? Ultimately, they are answerable to the governor, is it not?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Very well. If Hon. (Dr.) Robert Monda really wanted the job, the people he would be speaking to would be the board members, who would be scoring?

**Ms. Lucy Wahito:** Yes, the board members.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That would have been more effective. Thank you.

I would like you to look at page 189 of the County's bundle as I close.

Anyway, I will leave that question.

Madam Temporary Speaker, if you allow me, I give the remaining about two minutes to my colleague to ask one or two questions, please?

**The Temporary Speaker** (Sen. Veronica Maina): You may proceed.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker and the Plenary, for the record, I am Kelvin Michuki.

Ms. Wahito, I will ask you two questions in relation to the recruitment exercise in question. From your evidence, what role did you undertake in the shortlisting of these candidates?

**Ms. Lucy Wahito:** In the shortlist of the candidate, I never took any role. The board had hired an independent consultant who brought the report to the board.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Who was this independent consultant?

**Ms. Lucy Wahito:** Altred Consultants.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Are these independent consultants under the influence or guidance of the deputy governor?

**Ms. Lucy Wahito:** Not at all.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was the deputy governor aware of these independent recruiters?

**Ms. Lucy Wahito:** I am not sure.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Given your evidence that he was trying to influence this recruitment, how would he be certain that Mr. Dennis would be shortlisted for the interviews?

**Ms. Lucy Wahito:** He was, Madam Temporary Speaker. Dennis was---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): How would the deputy governor be sure that this person would be shortlisted by your independent consultant to end up at the interviews?

**Ms. Lucy Wahito:** By virtue of his qualifications.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Did you go through the qualifications of all the candidates who applied for the job?

**Ms. Lucy Wahito:** I did not go through.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Can you be certain that he had the best qualifications of everyone who had applied?

**Ms. Lucy Wahito:** Out of the list that was submitted by the Alfred ---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Everyone who applied before shortlisting.

**Ms. Lucy Wahito:** The document that was submitted to the Board had the list of all the candidates who had applied. It did not only have the list of the candidates who had applied for the position of commercial manager but all the other positions and their qualifications. He was shortlisted because he had qualified.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): By the independent consultant?

**Ms. Lucy Wahito:** Exactly, yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Who the deputy governor does not control or influence?

**Ms. Lucy Wahito:** Yes, he does not.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay, thank you. That is all. Thank you, Madam Temporary Speaker, and Ms. Wahito.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel. Do we have any re-examination? Counsel, how many minutes do you need?

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Madam Temporary Speaker, I will need 10 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Can you do the re-exam in five minutes? Can you condense it?

**The Counsel for the County Assembly** (Ms. Anna Munyoki): I will try.

**The Temporary Speaker** (Sen. Veronica Maina): Try and condense it.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Madam Temporary Speaker, I am Ms. Munyoki and I am going to re-examine the witness.

Madam Lucy, how many statements or affidavits did you make?

**Ms. Lucy Wahito:** Madam Temporary Speaker, I made one affidavit and one statement.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Were you also summoned by EACC?

**Ms. Lucy Wahito:** Yes, I was summoned by EACC and I made an elaborate statement at the EACC.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): What did you submit at the EACC? Was it a statement or an affidavit?

**Ms. Lucy Wahito:** A statement at EACC.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, we did not go into the issue of EACC. In your directions, for purposes of the hearing, you had said re-examination should limit itself to what was explored in the course of cross-examination.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, that objection is upheld. Confine yourself to issues that were raised during cross examination.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Well guided. Could you please clarify on the issue of the statements and the affidavit?

**Ms. Lucy Wahito:** Madam Temporary Speaker, I wrote the statement in a hurry and when I was summoned and asked to come and appear in the Senate, I made an affidavit to clarify the issues.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Is that the reason why you have two versions of the story?

**Ms. Lucy Wahito:** Exactly, yes.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Which one are you sticking to?

**Ms. Lucy Wahito:** Madam Temporary Speaker, I stick with the affidavit that I made before a Commissioner of Oaths.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): In cross examination, Senior Counsel, Mr. Katwa Kigen referred to the time of Mpesa messages. Are you a family person?

**Ms. Lucy Wahito:** Madam Temporary Speaker, yes, I am a family person.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Could that be the reason why you called the deputy governor in the morning?

**Ms. Lucy Wahito:** Madam Temporary Speaker, I could not call His Excellency the deputy governor at night. Those are not official hours. That is why I talked to him the following day in the morning. Again, that was a weekend, on Sunday, at night. I called him on Monday, in the morning.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): The next question is on why you used the Kshs100,000 the next day. How much is your Fuliza limit?

**Ms. Lucy Wahito:** Madam Temporary Speaker, my Fuliza limit is Kshs5,000.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Are you an agent of Safaricom?

**Ms. Lucy Wahito:** Madam Temporary Speaker, I am not.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): So, you do not know how reverse works?

**Ms. Lucy Wahito:** Yes.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Could that be the assumption that you continued using your money thinking that you were still using your credit amount of money?



**Ms. Lucy Wahito:** Madam Temporary Speaker, if you check, I withdrew Kshs30,000 from Cooperative Bank and Kshs5,000 from Equity Bank on 29<sup>th</sup>. Meaning, I was not spending the Kshs100,000 that had been sent to my phone.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): On the issue of the interviews, when was the interview?

**Ms. Lucy Wahito:** The interviews were done on 25<sup>th</sup> and 26<sup>th</sup> May, 2023.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): You said that you outsourced a party. Does the Board have an influence on--- What did you say is name of the agency?

**Ms. Lucy Wahito:** Alfred Consultancy.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): As the Board Members do you have direct control?

**Ms. Lucy Wahito:** The Board does not have control. That is among the list of the prequalified consultants in the company.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): Could you please explain to the House how the process happens from the shortlisting to the recruitment?

Madam Temporary Speaker, after the applications were submitted to the office of the Managing Director on 28<sup>th</sup>, it was closed and the consultant was given the database to go and look through from the long list and come up with a short list within a period of seven days. That is when they submitted the list to the Board of Directors on the 15<sup>th</sup> of May, 2023.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): At what point, did you communicate on the interviews?

**Ms. Lucy Wahito:** Madam Temporary Speaker, we communicated on the same dates of 15<sup>th</sup> to 17<sup>th</sup>. That is when we invited the candidates who had been shortlisted for the interviews. We gave them seven days' notice.

**The Counsel for the County Assembly** (Ms. Anna Munyoki): That is all, Madam Temporary Speaker.

**Mr. Kelvin Michuki:** I have one question, Hon. Temporary Speaker, with your indulgence.

Madam Lucy, was the deputy governor bribing for shortlisting or recruitment?

**Ms. Lucy Wahito:** Madam Temporary Speaker, looking at the time that he had approached me, at the beginning of May 2023, and the time that they sent the money on 28<sup>th</sup>, just after the interviews, I could connect the dots that it was supposed to influence the process.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): At the time of receipt had you communicated the outcome?

**Ms. Lucy Wahito:** At the time of receipt, we had not communicated.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): That is all, hon. Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): I believe that is all for this witness, except for the clarifications that the Senators would want to have. I have a whole

list of about 12 Senators who are interested in interventions. I will try and balance both sides, but we could do fewer than the 13.

Senator Seki, please proceed.

**Sen. Seki:** Thank you, Madam Temporary Speaker. To the witness, I will just go directly to the point. How can you relate the 15<sup>th</sup> and the 25<sup>th</sup> dates that you indicated that the interviews were done? How can you explain these two dates that are coming in your Statements and the presentation from the legal counsel?

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. 15<sup>th</sup> is when Altrade Consultants submitted the report, and in the shortlisting at the bottom, the date of 15<sup>th</sup> is written as 15<sup>th</sup> May 2023. That is where it caused some confusion because it is already on the list of shortlisted candidates. It is the day that we received the report from the consultants.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Betty Montet, please proceed.

**Sen. Betty Montet:** Thank you, Madam Temporary Speaker. I would like Madam Lucy, to tell this House, what was the gross salary the successful applicant of this job which was being facilitated expected to get.

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. The gross salary for that position, being Grade Two in the grading structure of the company, has a gross salary of about Kshs200,000.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker. Madam. Witness, how long have you been serving with the Gusii Water and Sanitation Company Limited (GWASCO)? Number two, how long have you known the deputy governor? Number three, you said you had a fuliza.

I know that she might not be a Safaricom agent but for us, when you have taken *Fuliza* and I send you money, it automatically deducts the money I have sent you. Does that not mean utilization of the funds?

Finally, Madam Temporary Speaker, does any official of the county government sit as an *ex officio* Member of GWASCO, from either the Nyamira or Kisii County Governments?

I thank you.

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. On question one, I have been the Managing Director of Gusii Water for the last one and a half years, having started from 1<sup>st</sup> September, 2022.

Secondly, on the use of *Fuliza*, if you look at the time the money came, my account balance had Kshs1,000. At the time of entry of the Kshs100,000, I had a balance of Kshs101,000.

The following day, when I sent the Kshs5,000, a difference of less than 20 minutes, I had already gotten money from my Equity Bank account and deposited Kshs5,000. Therefore, it does not mean utilization of the funds I had received.

Thirdly, in terms of *ex officio*, the members of the Board are 10. Five are independent, having been competitively recruited and five are *ex officio*. The five *ex*

*officio* in this case are the County Executive Committee Members (CECMs), Water and Finance for both counties. That is, Nyamira and Kisii Counties.

Meaning that we have two from each and every county, sitting as Board Members of the company.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Crystal Asige.

**Sen. Crystal Asige:** Thank you, Madam Temporary Speaker. To the witness, my questions are as follows-

When was the meeting that you mentioned you had with the Deputy Governor, where he proposed supporting is preferred candidate? When were the successful candidates informed in this recruitment process?

The Counsel for the Deputy Governor mentioned that there might have been an attempt to reverse, is there any evidence of the Deputy Governor's reversal from Safaricom?

He also made a point to direct Senators to the 8<sup>th</sup> February statement by the witness where she spoke of a silence that was heard on the phone. How should hon. Senators interpret the silence as being, noting what silence means in a court of law?

The Counsel for the Deputy Governor spoke of there being an error, I want them to kindly let us know the phone numbers for Lucy and Gladys in order to see how close those two numbers were.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Crystal Asige, you are overloading that witness with a raft of questions. If you could let her answer, then it would be reasonable.

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. On question one on when we had the conversation with the deputy governor, it was after 28<sup>th</sup>, the following week, on Thursday around 4<sup>th</sup> May, 2023.

The second question, on when the communication to the candidates who were successful was supposed to be done, we did that communication on 2<sup>nd</sup> June, 2023.

**The Temporary Speaker** (Sen. Veronica Maina): Mr. Katwa Kigen, I believe there is a question that was directed to you or your colleague.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, the instructions that I have is that ordinarily, when you make an attempt at reversal, it does not show on your M-Pesa. So, we do not have documents to show the attempt to reverse.

On the question of silence as captured in the statement of 8<sup>th</sup> February, our position is that whereas the witness said the deputy governor kept quiet, in our affidavit in response to that contention, we have said that indeed the deputy governor did not keep quiet, but informed the witness that the money was meant to have been sent to somebody by the name Gladys Aminga and it was a mistake to have been sent to Lucy.

We have shown in our bundles how he saved the two names next to each other which led to that mistake. I hope I have answered the question.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Tabitha Mutinda. Sen. Sifuna, your chance is coming, so hold on.

**Sen. Tabitha Mutinda:** Madam Temporary Speaker, I have brief questions. For how long have you known the Deputy Governor and how has your work relation been with him since you have been the Managing Director for the past one and half years in the institution where you work?

Secondly, in both your statement and affidavit, you have a keyword known as “approached”. When you say; “Robert Monda approached me saying---” How was the approach? Was it physical, a phone call or an email? How was the mode of the approach that you stated?

When you sent the money back to Dr. Monda, what was his response? When he approached you for a request of a candidate, what was your response to him?

**Ms. Lucy Wahito:** Madam Temporary Speaker, I have known His Excellency, Dr. Robert Monda, from the time they got into office. That is from August 2022.

Relation in the workplace has been a positive one because he is a stakeholder since county governments are shareholders. We have had good relations with the county government which he serves as the deputy governor. The relationship and the support that we have been receiving from the company shows that we have been having a good working relationship.

The third question is to do with the word “approach”. On 4<sup>th</sup> May, 2023, it was a Thursday, he called and summoned me to his office at Gusii Stadium. When I went to his office, that is when he told me that he had an interest in one of the adverts he had seen in the *Daily Nation* Newspaper. I told him that if the candidate qualifies, he will get the job because it is purely based on merit and qualifications.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Wambua.

**Sen. Wambua:** Madam Temporary Speaker, I have two quick questions.

Madam Lucy, did you have any other cash transactions before you received M-pesa from his account? Secondly, when you called him on 29<sup>th</sup> about the money you received on 28<sup>th</sup>, did he tell you explicitly that the money was meant to influence your decision on the job in question?

**Ms. Lucy Wahito:** Madam Temporary Speaker, when I called the Deputy Governor on 29<sup>th</sup>, he asked me to remember the case he had told me about in terms of assisting his candidate to get a job as the commercial manager. I told him that there was no need to send money because the criteria is purely based on merit. I then asked him to reverse the money.

**The Temporary Speaker** (Sen. Veronica Maina): First question?

**Ms. Lucy Wahito:** Sorry?

**The Temporary Speaker** (Sen. Veronica Maina): Did you answer the first question?

**Ms. Lucy Wahito:** Sorry, Madam Temporary Speaker, maybe I did not get that.

**The Temporary Speaker** (Sen. Veronica Maina): Repeat it for her.

**Sen. Wambua:** The first question was, did you have any cash transactions, any cash business between yourself, and the Deputy Governor before 28<sup>th</sup> when you received money through Mpesa from him?

**Ms. Lucy Wahito:** Thank you, Temporary Madam Speaker. We have never had any cash transactions between me and the deputy governor. Not in cash, not in my Mpesa.

**The Temporary Speaker** (Sen. Veronica Maina): Senator Murgor, do you still want to raise any questions?

**Sen. Murgor:** Thank you very much, Madam Temporary Speaker. I have two questions for the witness. One is, what did you see in your message? Did you see Kshs.100, 000 or did you see a name with it such that you are comfortable overnight with the money and not uncomfortable such that you would seek as to who is the sender and probably send it back?

So, what made you comfortable to just have it with you overnight? Then my second question is, what influence do you have over the Board such that the deputy governor would seek your help to be able to help him position this applicant?

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. Question number one, in line with what influence, being a Board Member, I am the Managing Director of the Company. I would probably think that he felt that I could be able to influence because by virtue of the office that I hold as the Managing Director and I sit in the Board, he felt that maybe I could be able to influence. It is by virtue of the position that I hold.

Question number two: The comfort in which I stayed with the money at night, I clearly stated the money was sent to me at 2134 hrs. It was a Sunday night. This is my boss in the county. I would not have called him at that particular time. The following day was a Monday. That is why I called him during the official working hours.

Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, we still have a list. I want to give an opportunity to Sen. Sifuna, but I request that if a question has already been answered, we do not repeat it because most likely you get the same answer.

Sen. Sifuna?

**Sen. Sifuna:** Madam Temporary Speaker, at the beginning of this proceeding, there were certain admissions that were made by the counsel for the deputy governor. Most important of which was that, yes, they accept money was received, but it was not for the purposes stated by the prosecution, but that it was for repayment of a debt.

Now, Senior Counsel Katwa Kigen, at page 189, where we have excerpts of the HANSARD of the proceedings before the County Assembly, is it not a fact that there was indeed another admission before the county assembly? You will see the question you put to him there.

Did you talk to Lucy about that request about your friend, Mr. Joseph Misati? Is it not a fact if the answer is to be believed that, in fact, this question of whether the deputy governor spoke to the Managing Director at GWASCO, on this request or not, has already been made?

Or is it your position, as you have stated before, that the HANSARD has been doctored?

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed.

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Our position is that, no, we do not say that that part of the HANSARD has been doctored. We do not contest that. We do not contest that bit of the HANSARD. We are saying that the money was erroneously sent to Lucy, yet it was meant to be sent to Ms. Gladys.

We contest the position taken by Ms. Lucy, that she was summoned. It is our position that they met casually and, the deputy governor said in passing that, “a friend of mine's son has applied” and that Ms. Lucy, in response, said exactly what she has said now, that “if he qualifies well and good” and nothing beyond that casual comment.

The issue of being summoned is not true. The Deputy Governor will testify to that tomorrow.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel.

Sen. Orwoba, you may proceed, and I will have to make a decision on whether we proceed, or---

**Sen. Orwoba:** Madam Temporary Speaker, I will be very brief. Thank you, Ms. Lucy, for keeping calm. I want to ask this question because there are some grey areas.

You are referencing that you did not make the phone call because it was 9.34 pm on a Sunday night. The assumption is that you do not speak to your bosses or anyone within work past certain hours.

So, my question is, have you never called the deputy governor past a certain hour in reference to any other issue other than this?

**Ms. Lucy Wachira:** Thank you, Madam Temporary Speaker. We have never spoken with His Excellency, the deputy governor, anytime beyond 5 pm. The few times that we have spoken with His Excellency, is during official hours and often morning hours. This would have been a different scenario if I had called him at night.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Osotsi, you may proceed, but do not repeat the questions, please.

**Sen. Osotsi:** Thank you, Madam Temporary Speaker. Ms. Lucy, this is the third time that you have appeared before the Senate. You have appeared before the CPIC Committee, which I chair as the Managing Director of GWASCO, and during those occasions, the Committee has given you a number of directives.

The first is on matters bordering on the fight against corruption. Secondly, it is matters bordering on the skill set and the competitive recruitment of staff in your company. Are your actions in this particular case motivated by the recommendations of the Committee to you?

**Ms. Lucy Wahito:** Madam Temporary Speaker, yes, I want to say that in the year 2021, the company had serious governance issues, and we were summoned to the Senate. We have been summoned twice.

Through the support of this Senate and the recommendations that he has been able to make, the company and the shareholders took that seriously and put in place the proper governance structures of the company. Through those structures, the company has made tremendous steps towards positive progress, improvements. The corporate image of the company has changed.

Therefore, this process, the company through the Board of Directors, and even though the shareholders, one, would not have entertained matters to do with corruption.

Secondly, the company was set to get the right skills for the right position so as to improve performance.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Chute, you take under one minute to ask a question and then maybe, at 9:10, we move on to the next.

**Sen. Chute:** Thank you, Madam Temporary Speaker. This House is a House of records and facts. Ms. Lucy, on a Statement of 8<sup>th</sup> February 2024, indicated very clearly that she--- let me read just this part -

After receiving applications from interested persons, the board shortlisted candidates for the post of commercial manager and invited them for interviews on 15<sup>th</sup> May, 2023. She went on to give time to people like Mr. Boyani Ongera 10.00 a.m. and Mercy Vati, 10.30 a.m.

Madam Temporary Speaker, what I do not understand this: In her witness statement, she says she invited these people on the 15<sup>th</sup>. She went on and said that they were supposed to come on the 25<sup>th</sup> and 26<sup>th</sup>. I want some clarification on that.

I also want to know if she could agree with me that she lied in her statement which she wrote on the 8<sup>th</sup> February, 2024 and the same on the affidavit dated 8<sup>th</sup> March, 2024. On the statement of 8<sup>th</sup> February, she stated that the Deputy Governor kept quiet. How can she forget?

In February, she states that the Deputy Governor kept quiet, but again in her affidavit - which is only a month afterwards - she says he had informed her that he was giving her the money because of certain issues. Let her agree with us that she lied in the statement she gave on 8<sup>th</sup> February, 2024.

**The Temporary Speaker** (Sen. Veronica Maina): Ms. Lucy can you tackle that quickly?

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. I did not lie. It is only that the statement was not made under the Commissioner of Oaths. That is why I clarified by saying that I stick with my affidavit that I swore.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed Sen. Omogeni

**Sen. Omogeni:** This is to my learned friend and senior, Mr. Kato. At page 26 the money was sent by error to the number 0724616288 that is to Lucy Wahito. At E7, the money was meant to be sent to Gladys Aming'a. Could you kindly supply us with the mobile number for Gladys Aming'a?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel proceed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Madam Temporary Speaker. If you look at page 117B of the governor's bundle, the error was not so much in terms of the number that was picked, but more of the names as saved by the Deputy Governor.

If you look at that page 117B, the deputy governor has saved the number of Ms. Lucy as "CEO GWASCO" and for Gladys as "CEO Health, Gladys Aming'a". The mistake was therefore in the choice of the person he picked when he was sending the money.

**The Temporary Speaker** (Sen. Veronica Maina): The Senator had sought about the mobile number. Or is that your response?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The number is in the M-Pesa transactions for Hon. Monda which is at page--- The number is actually on that page 117 but I know it is faint. Dr. Monda's M-Pesa statement runs from page 105. If you could, allow us when we will be adducing evidence tomorrow to pick it out.

It is part of our defense to show how we paid Gladys Aming'a shortly after having mistakenly sent it. Kindly, allow us to do that because I cannot trace the number right away.

**The Temporary Speaker** (Sen. Veronica Maina): Senator, that is a response. Whether good or bad, you know what to do when the response does not meet your standard.

Sen. Beth Syengo, proceed. The final Senator will be Sen. Mbugua. Afterward, we will not allow more questions. The point of order will pend the finalization of the two senators' questions.

**Sen. Beth Syengo**: Thank you, Madam Temporary Speaker, for this chance. My question goes to the Counsel for the Deputy Governor. It is in line with what the Senior Counsel has asked. How can the contact for Lucy, a name that starts with 'L' and Gladys a name that starts with 'G' be confused yet phone contacts appear alphabetically?

**The Temporary Speaker** (Sen. Veronica Maina): The question is directed to the Counsel.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, on page 117B we have shown how he had saved the names in a serial order of CO-Gladys and CO-Lucy. The names of Lucy and Gladys are next to each other. This is the most we can do in terms of answering the question of how the mistake happened. This is the most I can say.

With your permission, I would like to answer the question by the Senior Counsel, Sen. Omogeni. The number of Gladys Aming'a is 0727455843.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mbugua, proceed. This is the final question to this witness.

*(Sen. chute spoke off record)*

Sen. Chute, hold the point of order until we finalize. I have given directions. Wait.

**Sen. Mbugua**: Thank you, Madam Temporary Speaker. I will be brief. Madam Lucy, I want a clarification from you. By the time you advertised for this position, were you aware that there was a court order which had declared that position null and void and they had advised that you stop the recruitment process.

I also want you to tell me this hon. House if it is true that around the same time, the salary of the Managing Director was indeed increased from Kshs133,000 to Kshs510,000. If it is true, what necessitated the increase for this position?

**Ms. Lucy Wahito**: Thank you, Madam Temporary Speaker. The statements from the Senator are not true. No court case quashed the adverts that had been made on 14<sup>th</sup>



April, 2023. Secondly, the salary of the managing director was not increased from Kshs133,000 to Kshs510,000 within that period. If there was a salary, the Managing Director was given the salary by the board of directors at the time of appointment.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Chute, what was your point?

**Sen. Chute:** Madam Temporary Speaker, the witness has not answered my first question. In her statement of 8<sup>th</sup> February, which was an invitation ---

**The Temporary Speaker** (Sen. Veronica Maina): I believe she can remember that question. Lucy, can you clarify in under half a minute the first question that was initially asked about your two statements?

**Ms. Lucy Wahito:** Thank you, Madam Temporary Speaker. I made the first statement in a hurry. It was not before a commissioner of oaths. This is why I said that I would stick with the affidavit that I made before the commissioner of oaths.

**The Temporary Speaker** (Sen. Veronica Maina): I believe this is all for this witness. Counsel for the County Assembly, do you wish to call another witness, or have you dropped them?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, Madam Temporary Speaker. Also, permit me to supply the number of the witness who has just left, Lucy and this is for purposes of the benevolence from the County Assembly. The number is 0724 616288. It was sought and never supplied.

Madam Temporary Speaker, kindly allow us to call the next witness who goes by the ---

**The Temporary Speaker** (Sen. Veronica Maina): Lucy is the witness, I believe, who has just finished to testify.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): That is correct, Madam Temporary Speaker. Her number is 07246---

*(An hon. Member spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Senators, I believe it is okay. That number is already in the documents. Counsel, I believe it may not be necessary to supply it. They have their bundles, so they can read through the evidence.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Exactly, on Page 334. Madam Temporary Speaker, allow us to call our next witness.

**The Temporary Speaker** (Sen. Veronica Maina): How long are you going to take?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): She will be brief and will take about 20 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Okay, proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): She goes by the name Karen Magara.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed.

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**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Elias Mutuma will take the witness.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Katwa Kigen, how long will you need for cross-examination?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, could we request for the same time as the Evidence in Chief, please?

**The Temporary Speaker** (Sen. Veronica Maina): 20 minutes?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Actually, we do not need to take the entire 20 minutes. I reduce mine to 15 minutes or less.

**The Temporary Speaker** (Sen. Veronica Maina): 15 minutes is even better. So, Counsel Katwa Kigen maybe you will match the 15 minutes if need be.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My colleague intended to surrender the other minutes to me, but it is okay I can do 15 minutes.

*(The Witness for the County Assembly (Hon. Karen Magara) was ushered into the Chamber)*

**The Temporary Speaker** (Sen. Veronica Maina): You can do 15 minutes. Let us proceed.

*(The Witness for the County Assembly, (Hon. Karen Magara) took the Oath)*

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Good evening hon. Karen?

**Hon. Karen Magara**: Good evening.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): For record purposes, kindly repeat your name, tell us what you do for a living and where you come from.

**Hon. Karen Magara**: My name is Karen Magara. I am a nominated Member of County Assembly (MCA) in the Kisii County Assembly, representing special interests.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, being an MCA, you are aware and familiar with the issue at hand, right?

**Hon. Karen Magara**: Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You are also the seconder in the Motion for Impeachment of the deputy governor, correct?

**Hon. Karen Magara**: Yes, Madam Temporary Speaker.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. I want to lead you on two issues. One is on the issue of public participation, and then briefly on your interaction with the witnesses in this matter.

So, on public participation, did you witness how public participation was conducted in Kisii County?

**Hon. Karen Magara:** Madam Temporary Speaker, being a special elect, I had an opportunity not only to go to one ward, but to just do a sampling kind of exercise during the public participation. Indeed, it was a demonstration that so many issues came up in that public participation. So, I did witness the public participation.

The public participation had various forms of giving their views. One was by participation in a group. Others opted to take secret recording because they felt some of their issues were personal. Some wrote a memorandum to the Assembly through the Clerk. This was being done on the 26<sup>th</sup>, which was on a Monday.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Thank you. You have heard the defence counsel allege that some of those videos were cooked and that they were never recorded at the venue of the public participation. What would you say about that?

**Hon. Karen Magara:** Madam Temporary Speaker, I want to emphasise the point that when the public participation is being done, it may not necessarily find one person in the ward.

Remember, we have different divisions. Public participation can be in Tabaka Ward, but the person from Tabaka Ward could be working in Nyamarambe Ward, for example, which is in Bogetenga Ward. Where they were found, was where they were giving their views. It was not restrained to the ward that they come from.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Thank you. The videos that were played today, did you have an occasion to witness any of those recordings being taken?

**Hon. Karen Magara:** Some of them, yes, I did, Madam Temporary Speaker.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Can you point us to one of them that you had the occasion of being present when it was recorded.

**Hon. Karen Magara:** One that was very touching was when I witnessed an old *Mzee* talk about being told to sell 14 acres of land. They had a transaction with His Excellency the Deputy Governor. Midway, the transaction did not end well, and then the Deputy Governor was asking for a refund.

Another one was a woman, who clearly demonstrated that she is selling *mutura*. She was asking, if she is selling *mutura* and trying to educate her children, and when they go through school, then the leaders will ask her to raise the Kshs800,00. Where will she raise it from? That touched me.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** You have also heard an allegation tabled by the defence team that the governor was involved through the use of subcounty admin and ward admin in the public participation process. What would your answer be?

**Hon. Karen Magara:** Madam Temporary Speaker, that is absolutely false. We have separation of powers. You are aware that even when we have public participation for the Budget Appropriation, the Executive does its public participation, and the Assembly also does its public participation.

This particular public participation originated from the Assembly. There is no way that the Executive could have been allowed to carry out this public participation. So, it is not true.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): In instances where the event was to take place at the subcounty headquarters, is it not natural that the subcounty administration would usher in the guest? Is that the position?

**Hon. Karen Magara:** Yes. They could usher in because mostly, when it is done in the headquarters, sometimes they are told to arrange for the public participation. The arrangement include bringing the chairs and allowing us to use the facility. Then when the public participation ends, after they have organised where the public participation is, if it is for the Assembly, their engagement ends there.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. To my last limb of this questioning, did you have an opportunity to interact with the allegations in the Notice of Motion for Impeachment and conduct your own investigations on the allegations? If so, what was the nature of your interaction?

**Hon. Karen Magara:** Yes, Madam Temporary Speaker, I had an opportunity to engage and do my own investigations. That was after Hon. Siocha requested me to second the Motion.

Since I represent special interest groups, I voluntarily decided to, first of all, familiarise myself with the issues. I wanted to know whether what they were saying was correct. So, I went ahead and requested for the number of Dennis from Hon. Siocha. I then requested him to be in the company of the wife because I did not want to talk to Dennis alone.

They made arrangements and we met in town. They took me through the process of how they struggled to raise the money. What pained me is that the lady was expectant after struggling for 12 years. I am a woman and I know what women go through sometimes, particularly when you cannot conceive. The lady called Nyaboke sat and narrated how they even had to separate shortly with the husband because she could not contain whatever she was going through.

This gave me a motivation and I thought that being a woman representing the youth and Persons with Disabilities (PwDs), I had to rise to the occasion. I decided to take it upon myself to second this Motion. Whatever Dennis and the wife went through, I am standing here as a woman painfully explaining.

A Member of County Assembly (MCA) earns Kshs86,000. I ask myself as an MCA who is struggling to take her children to school, how long will I save to give a bribe of Kshs800,000, if somebody asked me to give them that money? That touched me.

When I was contributing to this Motion in the House, I said that I do not want to talk about the law, but speak to the morals. Where is our society now? I earn Kshs86,000 but somebody tells me to give them Kshs800,000. Where will I get it? That pained me.

I voluntarily promised to walk with them this journey, that justice must be served to Nyaboke and Dennis. That is my conviction and that is why I stand in this Senate patiently wanting to convince---

**Sen. Thang'wa:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Thang'wa?

**Sen. Thang'wa:** Madam Temporary Speaker, it is almost 10.00 p.m. The witness should stick to the issues because we did not come here for preaching and debates. We want to be directed to the issues as submitted. It is not a matter of emotions because we do not vote based on emotions, but based on facts. Could she restrain herself to answering the questions? When it comes to preaching, we will be ready.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, on that point of order, I believe you have filled documents, including statements and affidavits from the witnesses.

**An hon. Senator:** Point of order!

**The Temporary Speaker** (Sen. Veronica Maina): I am ruling on the first point of order, but I have not finished. Counsel, I request you to guide the witness, so that we make the process seamless. You should confine the witnesses to the documents that have been produced before the Senate.

**Mr. Elias Mutuma:** Thank you, Madam Temporary Speaker, for the guidance. I am actually on my last question on the issue. I just allowed the witness to give a true account of her own investigations and why she had to support the Motion for Impeachment.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Hon. Witness, were the four allegations against the Deputy Governor of Kisii County substantiated to warrant an impeachment? That would be my last question.

**Hon. Karen Magara:** Yes, they were substantiated.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do they warrant an impeachment?

**Hon. Karen Magara:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Madam Temporary Speaker, that will be all for this witness.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Kigen, please, proceed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My colleague, Mr. Ochoki, will do the cross-examination.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you, for the opportunity, Madam Temporary Speaker.

Hon. Karen, I would like to clarify a few things from you, and I will start with whether you are aware of the advertisement that was made by the County Assembly, which is at Page 22 of Vol. I of the County Assembly's documents. Are you aware of that? Did you see the newspaper adverts in *The Standard* of February 24<sup>th</sup>, 2024?

**Hon. Karen Magara:** Which page?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Page 22.

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): The Motion to have public participation was dealt with in the County Assembly on 21<sup>st</sup> of February. Is that correct?

**Hon. Karen Magara:** Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Since my Senior, Mr. Katwa, will deal on the funds and all, could you be aware on who funded this advert or from where it was paid for?

**Hon. Karen Magara:** The Assembly is supposed to pay for the advert. That has been the practice.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): In the advert, there are venues that are listed. Have you seen it?

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Did you visit any of these venues?

**Hon. Karen Magara:** Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Which ones did you visit?

**Hon. Karen Magara:** I went to Tabaka, where there was a public participation. There was another one in Nyamarambe and another one in Kitutu.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Okay. You passionately raised the issue of public participation. Let me refer you to your contribution in the House on 29<sup>th</sup> of February, this year.

Hon. Madam Temporary Speaker, the same can be found on page--- As I get it, in your contribution in the House, at Page 158 of Vol.I of the County Assembly's documents, your emotional participation and your contribution runs from Page 158 to 160 of that County Assembly Volume.

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Okay. In your contribution at the County Assembly, is there any mention of public participation, except for reference that you met Dennis and his wife?

**Hon. Karen Magara:** I did not speak about it, but the report had already been submitted to the Clerk.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): The question is; did you make reference to public participation?

**Hon. Karen Magara:** I did because one of the participation I did was to see Dennis.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): However, the participation that you talk about having gone everywhere is not in your contribution in the County Assembly. Is that correct?

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. Why did you not bring out or raise that contribution in the County Assembly?

**Hon. Karen Magara:** In the Assembly, we were limited with the speaking time. So, you pick on the very important issues.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): However, in the Senate are we not limited for time? Anyway, I was asking you that because we have information that those clips were done after the session. Is that correct?

**Hon. Karen Magara:** That is not true.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Okay. Thank you. Where did you meet Dennis and his wife?

**Hon. Karen Magara:** I invited them to come to Kisii Town.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): You talk of them having made a payment to the Deputy Governor?

**Hon. Karen Magara:** Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): That is what they told you?

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Did they tell you when they sold the salon that you very passionately refer to in your affidavit and statement?

**Hon. Karen Magara:** Yes. Madam Temporary Speaker, the salon was sold sometime in April.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you aware that as at the time when the salon was sold, Dennis had not applied for the job?

**Hon. Karen Magara:** I have not reconciled the two.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): You have told the House that Dennis's wife had 12 years of unsuccessful trials to get pregnant?

**Hon. Karen Magara:** For the second born, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Have you brought to the Senate any medical document of that problem?

**Ms. Karen Magara:** No.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): You claim or say that she is suffering from serious depression. Have you brought any medical document to the Senate?

**Hon. Karen Magara:** No.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Let me refer you to the voting. Madam Temporary Speaker, please, allow me refer the witness to Page 158 of the documents titled DG. Take a look at that.

In that Page 158, confirm that particular document is your vote at the County Assembly and alongside it, is your staff ID?

**Hon. Karen Magara:** Yes, it is mine.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Is it correct that this photo was sent to the real sponsor of the Motion to impeach the Deputy Governor in order to confirm that, indeed, you voted to impeach the Deputy Governor?

**Hon. Karen Magara:** No, it is not true.

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**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Why were you taking this photo?

**Hon. Karen Magara:** This was for my own record and there is no law that stops me from that.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, I am referring the witness to Page 158 –161 of the DG’s bundle.

Please, confirm that those other documents annexed thereto are votes and IDs of other Members of the County Assembly.

**Hon. Karen Magara:** Others are not clear, but I have only identified mine.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): If you look at Page 159, that is a vote. Do you have an MCA known as hon. Jim Kenyanya in the Kisii County Assembly?

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): That is his vote at Page 159. On page 160, do you have an MCA known as Peter Mokuia Okerio? His name and ID are there.

**Hon. Karen Magara:** Madam Temporary Speaker, I cannot see anything here.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, my apologies. I believe the copy shared did not have that. Look at that page and confirm that all those other pages show votes and IDs of all your colleagues.

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Is it not true that the MCAs voted under duress because they were compelled to show their master or sponsor how they voted?

**Hon. Karen Magara:** Not true.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): What is your explanation for the other Members that also took photos alongside their votes?

**Hon. Karen Magara:** Madam Temporary Speaker, I am not able to answer for other Members. I can only answer for my vote and photo.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Does the Deputy Governor have a kitty for bursaries?

**Hon. Karen Magara:** No.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you aware of the provisions of the Kisii County Bursary Act, 2014?

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Does the Deputy Governor have any influence with regard to who is awarded bursaries?

**Hon. Karen Magara:** No.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Why then would you rely on public participation? Ordinarily, just for the record, are you aware of anyone that has been given a bursary of more than Kshs5,000 in Kisii County?

**Hon. Karen Magara:** Yes.

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**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): How much has that sum been?

**Hon. Karen Magara:** I can confirm that depending on how needy the child is, some get Kshs10,000. I can confirm that and I can even give a name if allowed.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. Would it be in order then for someone to say he paid Kshs12,000 to be given a bursary of Kshs10,000? Did you believe that? Is that the public participation that led you to impeach the Deputy Governor or vote and second the Motion?

**Hon. Karen Magara:** Madam Temporary Speaker, I may not be able to answer for the Deputy Governor on whether he receives money, but those were witnesses or people who were testifying. It is not for me to answer on his behalf.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Even as you stand here, it is not logical for someone to bribe Kshs12,000 to get Kshs10,000. Does that add up, hon. Karen?

**Hon. Karen Magara:** It happens. I can say that they are even conversations in other counties. There was a conversation which is not authentic, so I cannot answer that.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): It is okay; time is running out. My colleague, Katwa, will take you through one or two questions. However, let me seek your answer to this because I know you are one of those serious supporters of His Excellency the Governor.

**Hon. Karen Magara:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): You will agree with me that most of the people that do not agree with the Governor are either interdicted, sacked or impeached, like the Deputy Governor. Is that correct?

**Hon. Karen Magara:** That is not correct, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): To the best of your knowledge, there a lot of disputes with regard to governance. Are you aware that the Deputy Governor had disagreed with the Governor on small issues about governance?

**Hon. Karen Magara:** They should be able to sort out small issues. That is why they are leaders.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Let me just ask you, so that you just say 'yes' or 'no.' Are you aware that there was a disagreement about how the Governor runs the county from his home at Motonto?

**Hon. Karen Magara:** Not true.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you aware of the alterations in the budget?

**Hon. Karen Magara:** Not true, I sit in the budget committee. Not true.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you aware that the Ethics and Anti-Corruption Commission (EACC) is investigating alterations made on the budget?

**Hon. Karen Magara:** Yes, I know there is a letter from the Controller of Budget (CoB), but these are just concerns that come from CoB, which is normal.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you, Madam Temporary Speaker. I believe we have three or four minutes. Allow my Senior, Katwa Kigen, to ask a question or two.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Katwa Kigen, you are winding down your five minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, I will be very brief, Madam Temporary Speaker. Good evening, Madam Karen?

**Hon. Karen Magara**: Good evening, Counsel.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like to request you to go to Page 24 of the County Assembly bundle, Volume I.

Your testimony, as you were being led by my learned friend, was basically that you came here to endorse the propriety and the results of public participation. Is that not it? Your point is that proper public participation was done and there is a proper feedback to it. Is that not it?

**Hon. Karen Magara**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that Page 24-51 is that public participation report?

**Hon. Karen Magara**: The document is a bit mixed up. There is public participation and other things.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): If you go to Page 24. Are you there, please?

**Hon. Karen Magara**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Can you see the heading of all the contents of Page 24 to 51? It says 'Third Assembly, Third Session, Report of Public Views on the Removal from Office of the Deputy Governor of Kisii County Government by way of Impeachment.' Can you see that?

**Hon. Karen Magara**: Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much. I just have two sets of questions on that.

Can you confirm that the Report is not signed anywhere? There is nobody who has taken responsibility for that report?

**Hon. Karen Magara**: The 24 pages?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes.

**Hon. Karen Magara**: Madam Temporary Speaker, somebody has signed. There is a 'received' and a signature.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So somebody has signed that they have received the Report?

**Hon. Karen Magara**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, that is the person receiving. Has anybody signed to note that they are the one who compiled this Report?

**Hon. Karen Magara**: No, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Very well. Number two, from Page 24 to 51, there is no reference anywhere to any video. True?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Kigen, that should be your final question. Wind up on that question. Let her answer you. Time is up.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I just have one more question after this one, Madam Temporary Speaker.

There is no reference to a video. True?

**Hon. Karen Magara**: No reference, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like to take you to Page 103. That will be my last question. Page 103 of that bundle. You got it?

**Hon. Karen Magara**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. I want you to read the last paragraph. Does it say this, ‘Hon. Henry Moracha, Leader of the Majority, rose on Standing Order No.93 and sought an adjournment for purposes of public participation?’ Can you see that?

**Hon. Karen Magara**: Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is correct?

**Hon. Karen Magara**: Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Can you confirm that when you adjourned for purposes of going for public participation, you did not provide funds to do this public participation? Can you confirm that?

**Hon. Karen Magara**: Do you want me to explain because I cannot say ‘yes’ or ‘no.’

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Explain. I just want you to say---

**Hon. Karen Magara**: No, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much.

Number two, you did not determine who was to collect public views. You did not create a committee and neither did you have the ward administrators or Members of the County Assembly (MCAs) collect the views. You did not assign anybody the business of collecting views. Did you?

**Hon. Karen Magara**: No, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much. I will leave it there, Madam Temporary Speaker. Thank you so much for the accommodation and indulgence.

Thank you, Hon. Karen. Nice seeing you again.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel. Do we have any re-exam? How many minutes do you need? You will have five minutes on re-exam.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Madam Speaker. I will not spend five minutes. I have two questions for the witness.

Hon. Karen Magara, who conducted and compiled the public participation report?

**Hon. Karen Magara:** Sorry?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Who conducted and compiled the public participation report?

**Hon. Karen Magara:** This public participation was done by the Communications Department from the Assembly. They are the people who did the compliment.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Lastly, you have been accused of taking a picture and sending it to the sponsor of this Motion. Why did you take a photo of your vote?

**Hon. Karen Magara:** Madam Temporary Speaker, it is not true and I was not under any instructions to send my photo. This is for my own reference.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do you know the source of that photo? If you took it from your phone, how did it end up at the Senate?

**Hon. Karen Magara:** I cannot say, but it is in my phone, Madam Temporary Speaker. I do not know how it came out. It was not a secret.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Lastly, is it unusual for MCAs to be lobbied and whipped to support a particular Motion in the County Assembly? Is it unusual?

**Hon. Karen Magara:** It is very normal for a County Assembly, just like what happens in the Senate. Sometimes when the Government has a specific Motion or policy in the House, the Majority Leader is expected to lobby. So, it is normal to lobby.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you very much. Mr. Mwangi seems to have one question.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Just two questions, Madam Temporary Speaker. Hon. Karen, was this the first time the Assembly was conducting public participation?

**Hon. Karen Magara:** No, Madam Temporary Speaker.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Have you done it before?

**Hon. Karen Magara:** Yes.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Was the public participation for the Motion on impeachment presented before the Assembly?

**Hon. Karen Magara:** Sorry?

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Was the Report for public participation presented before the County Assembly?

**Hon. Karen Magara:** Yes.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): When was it presented?

**Hon. Karen Magara:** The same day when the discussions were being made and the subsequent voting. I remember when Mr. Katwa Kigen, the Counsel asked for the same.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Did you debate the Report of public participation before the impeachment?

**Hon. Karen Magara:** No.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): That is all.

**The Temporary Speaker** (Sen. Veronica Maina): I see two requests. Sen. Chute, have you requested to speak?

**Sen. Chute:** Yes, Madam Temporary Speaker, Sir,

**The Temporary Speaker** (Sen. Veronica Maina): Then you can proceed.

**Sen. Chute:** Thank you, Madam Temporary Speaker. It seems like we are in a *Papa Shirandula* episode here and, I wanted to ask the witness, on Page 36 of Volume I, on Masimba Ward. Were there no members of the public who were at the venue when the secretariat arrived? What can she say about that?

The second question is, how many people of those who participated were in support of the Deputy Governor or who were against the Deputy Governor? That is why public participation is required. Can she explain to us?

**Hon. Karen Magara:** Madam Temporary Speaker, in the Masimba Ward Report, it is indicated that there were no members. When it is not properly advertised, public participation becomes an issue because you will realise that not many people read newspapers.

So, sometimes it is possible that the people of Masimba Ward did not get to see the advert in the newspaper because we were not doing local advertisements from local stations. It was the newspaper that was being used. So, I am assuming that it could have been possible, but most people were not able to reach out to this advert.

On the second question of how many were for the Deputy Governor and how many were for impeachment. I will say that the majority, about 80 per cent, were for the impeachment and 20 per cent were, of course, in defence of the Deputy Governor.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Karungo Thang'wa?

**Sen. Thang'wa:** Madam Temporary Speaker, my question goes to the witness, Hon. Karen Magara.

What could have been better? Is it to have you here and comment in support of those who give a public opinion or them to appear here as witnesses, especially the old man who said that his land was almost taken by the Deputy Governor?

Could it not be better to have him as a witness, so that we can ask more questions and cross-examine him, rather than a video of him just mentioning something, and then it is done?

Finally, if you look at the County Assembly, Volume 1, the same old man on Page 283 signed an agreement with the Deputy Governor to have that land or to buy that land in July, 2022. That was even before he was elected as the Deputy Governor.

So, my question is, now that he got back his land, the agreement was cancelled, and he owes the Deputy Governor Kshs350,000, could we say that he wants to finish that deal, not pay the Deputy Governor his money because he owes the Deputy Governor Kshs350,000?

**Hon. Karen Magara:** Madam Temporary Speaker, on the first question on who is supposed to appear in the Senate. Remember that we have our Lead Counsel here. Maybe those are the well-placed people to say what necessitated picking others and why others were left out.

Question number two, about the land balance of the Deputy Governor---

**The Temporary Speaker** (Sen. Veronica Maina): On the land question, maybe a different person will be better placed to answer it.

**Hon. Karen Magara:** Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Senator, that could be directed to a different person such as the counsel. Counsel, kindly respond to the second question as opposed to the witness responding to it.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Madam Temporary Speaker. I will draw the attention of the Senate to Page 284 of the bundle of documents by the county assembly. I confirm that the affidavit speaks about a situation of going concern. It speaks about an anticipated event.

If you look at the agreement, it is true it was done in July, 2022. The elections were to be conducted on 9<sup>th</sup> August, 2022. The agreement was that if he was to be successful then, he would employ six children for him, subsequent to which he would give him a set-off of Kshs300,000.

This is to confirm the impropriety and state of mind of the Deputy Governor; that he came to the county government with a purpose to enrich himself.

Most obliged.

**The Temporary Speaker** (Sen. Veronica Maina): That is the end of this witness's evidence. We can now proceed to the next. How many more witnesses do you have? I believe it is one.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Madam Temporary Speaker. We wish to announce that we have our last witness for today. His name is Mr. Reuben Monda.

**The Temporary Speaker** (Sen. Veronica Maina): How long is he going to take?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Madam Temporary Speaker, at most 20 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Try and squeeze it to 15 minutes, if you can. Counsel Katwa, how long will you take cross-examining this witness?

**Mr. Katwa Kigen:** Madam Temporary Speaker, we shall try in about 10 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): We can proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, I am informed by my assisting counsel that we may be facing a challenge; the sickly Mr. Reuben Monda has gone for his medication. Noting that we still have a witness who was summoned by the Senate, I beg to be guided whether or not we can perhaps wait for him for the next 30 minutes or how do we proceed?

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, I request that we spend 30 minutes on the available witness, so that tomorrow, we only have one witness on the prosecuting side. Instead of Mr. Reuben Monda---

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. If I heard counsel correctly, he says he had lined up Mr. Reuben Monda, but he seems to have left

Parliament to take medication. He also adds that the Senate summoned another witness, whom he wants to avail---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Omogeni, I heard him very well and I understood.

**Sen. Omogeni:** Maybe, we can get clarification if he has any witness outside waiting or we are---

**The Temporary Speaker** (Sen. Veronica Maina): Mr. Reuben Monda is out taking his medication, but there is one more witness who was summoned by the Senate. I was proposing that we take him---

*(Mr. Reuben Monda walked into the Chamber)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, he has walked in.

**The Temporary Speaker** (Sen. Veronica Maina): He is here? Who is this now? Is this Mr. Robert Monda?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, this is Mr. Reuben Monda.

**The Temporary Speaker** (Sen. Veronica Maina): Okay, we can proceed with Reuben Monda. He could take a seat if he is not able to stand.

*(Mr. Reuben Monda was ushered into the Chamber)*

**The Temporary Speaker** (Sen. Veronica Maina): Serjeant-at-Arms, make that witness comfortable. We can proceed if you are ready.

*(Mr. Reuben Monda, took the Oath)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Reuben Monda, good evening.

**Mr. Reuben Monda:** Good evening.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We are sorry for having kept you waiting the whole day. Kindly pardon us. Would you kindly introduce yourself to the Senate?

**Mr. Reuben Monda:** Hon. Senators, my name is Reuben Orang'i Monda Matundura, the immediate follower of the Deputy Governor of Kisii County, Dr. Robert Monda.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Does that mean that you are the brother of the Deputy Governor?

**Mr. Reuben Monda:** Madam Temporary Speaker, I am a blood brother, the immediate follower. My brother took care of me when I was young.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You have said that your brother took care of you when you were young.

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**Mr. Reuben Monda:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you understand what brings you this evening before the Senate?

**Mr. Reuben Monda:** I understand what brings me before the Senate. I have come here to seek justice for myself. I have come here because of the harassment and mistreatment that occurred to me when I was sick.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Allow me to lead you once more.

**Mr. Reuben Monda:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you understand that your brother is facing an Impeachment Motion?

**Mr. Reuben Monda:** Yes, I understand that my brother is facing an Impeachment Motion

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you understand the consequences of the impeachment if it were to be upheld by the Senate?

**Mr. Reuben Monda:** Come up again.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you understand the consequences of this process if the Senate was to impeach him?

**Mr. Reuben Monda:** Yes, I understand the consequences.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What are the consequences?

**Mr. Reuben Monda:** One, in Kisii County, we shall not be having chaos as we are having. We will not be harassed the way we are being harassed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, you understand that this process will culminate into him losing his seat, yes?

**Mr. Reuben Monda:** Yes, I understand.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And are you ready to take that path as a brother to the Deputy Governor?

**Mr. Reuben Monda:** Yes, I am ready to take it?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Reuben Monda, have you come here on your own volition or you have been compelled to appear before the Senate?

**Mr. Reuben Monda:** No, Madam Temporary Speaker. I have come on my own volition.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): To that effect, Mr. Reuben Monda, did you swear an Affidavit dated the 21<sup>st</sup> February?

**Mr. Reuben Monda:** Yes, I did. I swore an affidavit.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Again, did you swear that affidavit voluntarily or you were compelled?

**Mr. Reuben Monda:** No, I swore the affidavit voluntarily.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am sorry, hon. Senators, I think the sugars are going low. That is Page 257 of the bundle of documents by the County Assembly. I am so sorry, I beg your pardon.

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It is page 257, Madam Temporary Speaker. You will find the Affidavit of Reuben Monda Orang'i Matundura.

**Mr. Reuben Monda:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I will refer you to paragraph four of the affidavit where you say that "my brother the Deputy Governor of Kisii County has had a rough relationship with the family, since ascending to being the Deputy Executive in the county, including treating our father with exception of contempt." Yes?

**Mr. Reuben Monda:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What exactly do you mean?

**Mr. Reuben Monda:** I mean, he has handled our father, an old man who is 94 years old, in a very bad way. That made me to cry because I was at home and told my brother that, "you can treat our father like this?"

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Are you saying that this is a behaviour he has acquired upon assuming office or he has always been like this?

**Mr. Reuben Monda:** He changed abruptly after getting that position and he started mistreating everyone.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Look at Paragraph five of the said affidavit, where you say; - I will assist you in reading -

"The Deputy Governor has since then ensured that there are at least five county officers stationed at our home, performing not only manual jobs in the farm, including, but not limited to digging wells at our compound, feeding dairy cows, an aspect I strongly believe that is not part of their job description, but also spending the night in one of our father's house."

Now, I put this question to you. Do you live in the same compound with the Deputy Governor?

**Mr. Reuben Monda:** Yes, we live in the same communal compound with my brother, the Deputy Governor.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, while living in that particular communal compound, are you able to see what happens in each other's homestead?

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker. Since, I am sick, I stay at home all the time more than my brother, the Deputy Governor. I see what happens day in, day out.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You speak about five officers. Are these normal casuals or county enforcement officers?

**Mr. Reuben Monda:** Madam Temporary Speaker, these are county security officers.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How are you able to distinguish that they are county enforcement officers or security officers?

**Mr. Reuben Monda:** Madam Temporary Speaker, they come on duty in a green uniform every day.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is your statement, therefore, that the enforcement officers do odd jobs for and on behalf of the Deputy Governor.

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker. They do that. I am an eye witness.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Would you describe the kind of the jobs they undertake? Other than feeding the dairy cows and digging wells, is anything else that they do?

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker. There are some who do the lawn mowing and those who dig. In fact, they deepened an existing well for our brother when I was sick.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Look at paragraph six again of your affidavits, but before we do that, you have said that, “But they also spent the night in one of our father’s old house.”

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who are these who spent the night there?

**Mr. Reuben Monda:** The security guards who come during the night. Once they finish, all of us report into the compound, they go and sleep in that house.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Paragraph six of your affidavit, Mr. Reuben, states-

“My brother, the Deputy Governor of Kisii County has made it his business to ensure that our home is an extension of the county, wherein, he dictates and in misuse of the county officers, has his way. Since he came into office, there has been at least five working in his farm, clear demonstration of the Deputy Governor is misusing the staff of the county.”

Do you confirm that he does misuse them?

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker. I confirm and I can give explanation how it happens.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Please do.

**Mr. Reuben Monda:** For example, on the 20<sup>th</sup> December, 2023, my brother, without me knowing, because I was fixing some timber where I wanted to plant some more trees, his wife came to where the *fundis* were splitting the timber, and told them that I had cut their trees.

Then, my brother came, without me knowing, with about 20 county security officers and seven national Government *askaris* from Keumbu Police Station to arrest me, which shocked me. I could not believe it. I was arrested.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did they tell you the reason why they were arresting you?

**Mr. Reuben Monda:** He never told me the reason. He just told the *askaris* because he was the one leading them to the *shamba*.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You mean he was present at that particular time?

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker. He said we did not come here to argue with anybody. “*Askari*, can you do what you came here to do” and the *askaris* told me that I am under arrest.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which *askaris* told you that you were under arrest, the National Police Service (NPS) or the county enforcement? Whom was he commandeering?

**Mr. Reuben Monda:** He commandeered the Deputy OCS, Keumbu and also the Deputy ---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am asking, between the county enforcement officers and the national police officers, whom did he order to arrest you?

**Mr. Reuben Monda:** I repeat, he told the Deputy OCS Keumbu and also the deputy for the security officers who were there.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which security officers in particular?

**Mr. Reuben Monda:** I think I have said that somewhere.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Reuben, we have two groups here.

**Mr. Reuben Monda:** That is why I am talking about the two. I am differentiating between the two.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Please, do.

**Mr. Reuben Monda:** I am saying, the deputy---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We can assist you to read the paragraph.

**Mr. Reuben Monda:** Madam Temporary Speaker, Sir, forgive me, I am unwell.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Just to refresh your memory. Mr. Reuben, we have two groups here. We have 20 county enforcement officers. Did the Deputy Governor command them to arrest you?

**Mr. Reuben Monda:** Yes, he commanded them to arrest me.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, what transpired therein after?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have five minutes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am just about to be done.

**Mr. Reuben Monda:** What happened was that I was harassed very badly by the *askaris*. I was taken to Keumbu, and at Keumbu, I was not given an OB number. I was not booked. After three hours, I was taken to Kisii by the *askaris* from Keumbu because it looks like there were some orders that were coming from Kisii Central Police Station that the Keumbu *askaris* to rush me to Kisii.

I was rushed to Kisii and there I met the OCS, Kisii, who also failed to book me in. I stayed there for almost five hours without being booked, but I was put to sit next to the cell on a box. I was told that it contains the ammunition. So, I could not understand.

At some stage because I was very sick, I requested to be taken to the hospital. When I requested, the OCS accepted, but on reaching the Kisii Referral Hospital, the OCS again commanded the two *askaris* who took me there to rush me back, saying that there was a letter he was to write for me, so that he allows me to go to the hospital. When I came, the OCS had left. We tried to call him, but he had switched off his phone.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, you ended up not getting treated?

**Mr. Reuben Monda:** Madam Temporary Speaker, I did not get any treatment.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Have you been charged before any court for that offense?

**Mr. Reuben Monda:** Madam Temporary Speaker, I have never been charged in any court.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did your brother reach out to you during that particular time?

**Mr. Reuben Monda:** Madam Temporary Speaker, up to now, he has never reached out to me.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you have any evidence before this Senate in terms of photos that you would wish the Senators to watch?

**Mr. Reuben Monda:** Yes, there are photos, which can be explained.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Can we have the clips played.

**The Temporary Speaker** (Sen. Veronica Maina): Technical team, can you run that?

*(A video clip was played)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We can begin there. What is happening in that particular photo?

**Mr. Reuben Monda:** That is when I was put in the Land Rover for Keumbu. At that time, we have reached Keumbu and I am being rushed to Kisii Central Police Station.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): When was it?

**Mr. Reuben Monda:** This was after I had stayed for three hours at Keumbu. Orders came that I should be rushed to Kisii Central Police Station.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me, I can see, a person hanging just next to the pickup's door. Can you see that person with a brown shirt?

**Mr. Reuben Monda:** Brown shirt, yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who was he?

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**Mr. Reuben Monda:** I do not know him by name, but if I get him, I can---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is he one of the enforcement officers or a police officer?

**Mr. Reuben Monda:** That one is an enforcement officer.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is he from the County or from the national Government?

**Mr. Reuben Monda:** From the County security team.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where are the rest? You spoke about 20 of them. What happened to the rest?

**Mr. Reuben Monda:** Madam Temporary Speaker, the rest collected 61 pieces of timber from the shamba to a waiting lorry on the road, and they are the ones who offloaded the vehicle, which was carrying the timber when we arrived at Keumbu.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who ordered them to do so?

**Mr. Reuben Monda:** It is my brother, the Deputy Governor, who gave them instructions to do so.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you think in your own opinion, if the Senate does impeach the Deputy Governor, you will get yourself free of this intimidation and harassments?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, your time is up.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): This is the last question. If he is stripped of all these powers, will you continue to have the harassment coming from the enforcement mechanisms of the County?

**Mr. Reuben Monda:** It is my hope and prayer that he will not continue doing it. That is why I came here.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You said there was a video that was recorded, right?

**Mr. Reuben Monda:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, could we see and watch the last clip? Who took these photos and videos?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, how many more minutes do you need?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Only three minutes, Madam Temporary Speaker.

Who took these videos and the photos?

**Mr. Reuben Monda:** My brother came with the media. They are the ones who took that and they even broadcasted what transpired on the local television stations in Kisii.

*(A video clip was played)*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where is that place and what is happening?

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**Mr. Reuben Monda:** We are on the way to Kisii Central Police Station.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Have you been induced by any person to come and testify before the Senate in relation to this matter?

**Mr. Reuben Monda:** No, Madam Temporary Speaker. I came on my own volition.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Finally, should a Government officer, state officer or public officer use his powers in that manner that your brother did?

**Mr. Reuben Monda:** Madam Temporary Speaker, I came because of the harassment, abuse of office and misuse of power against me by my own brother. That is why I came here. I want to get justice. The justice that I want is for my brother to be removed from office, so that he comes to his senses. I am praying for him so that he can see the kingdom of Heaven.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** We are sorry about that, *Mzee*. We are so sorry.

*(The witness broke down and wept)*

**The Temporary Speaker (Sen. Veronica Maina):** Is that all for this witness and examination-in-chief?

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Yes, Madam Temporary Speaker, that is all for the old man.

**The Temporary Speaker (Sen. Veronica Maina):** Does he need time before cross-examination? Is he able to take the questions in cross-examination?

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Madam Temporary Speaker, he says that he has one more issue that he wants to state. Granted his age, I pray that you grant him one more minute.

**Mr. Reuben Monda:** Madam Temporary Speaker, since that time, I fell sick and was brought to Nairobi Hospital, where I stayed for three weeks and spent a lot of money. I am now on injections. Right now, I have done three injections and I have 41/2. I have many drugs to take and I can see that my life is in danger.

That is why I decided to come because he has mistreated me many times. I forgave him, but this time round, I said I must come on my own volition

Thank you, hon. Senators.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Mr. Reuben Monda, you will be asked questions by the Counsel for the Deputy Governor---

**The Temporary Speaker (Sen. Veronica Maina):** Counsel, I am on the microphone.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** I am sorry, Madam Temporary Speaker.

**The Temporary Speaker (Sen. Veronica Maina):** Where did he fall sick? He said that he fell sick.

**Mr. Reuben Monda:** I fell sick after thinking very hard for almost one-and-a-half weeks of what transpired and when one of my brothers, who is a doctor, came home he took my pressure. I thought that it was only my sugars which were bad, but my pressure was reading over 200. He told me that I was very sick and needed to be rushed to the hospital. That is why I was brought to Nairobi.

Before, I never had such kind of problems. I was not on these injections. I was not on the many drugs, but I was taking a few tablets to control my sugar and blood pressure. However, right now, I am in very bad shape. Even my legs are swollen

*(The witness broke down and wept)*

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Reuben. Counsel.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): You can have a word with him and explain to him that he will go through cross-examination now.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Reuben Monda, I am sorry for the ordeal. God will comfort you, but we are on trial and facts must be found by the Senate. You will, therefore, be asked several questions by the opposing Counsel. I kindly request that you compose yourself.

Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, how many minutes?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, as we had indicated, we will take 15 minutes. I seek indulgence from the House if we can have an interpreter availed because we want to refer to a video, which is in Gusii language.

**The Temporary Speaker** (Sen. Veronica Maina): Secretariat, can we have the translator back?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Good evening, Mr. Reuben Monda.

**Mr. Reuben Monda:** Good evening to you.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will ask you a few questions before we get the interpreter. Your evidence is that since your brother became the Deputy Governor he has changed.

**Mr. Reuben Monda:** Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): He has tasted power and changed?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is this the first time your brother has had a position of power?

**Mr. Reuben Monda:** No.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): What previous position has he had?

**Mr. Reuben Monda:** Member of Parliament.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Since which year?

**Mr. Reuben Monda:** 2007 to 2013.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Did he change then?

**Mr. Reuben Monda:** No.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): However, it is still your evidence that he changed once he became a Deputy Governor?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, we shall be referring to one of the videos that we were supplied with by the County Assembly.

Maybe, I can give the title for the---

It is a clip by the name 'Monda arrests brother over firewood'. Maybe, that one can be played.

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Before we play that, Mr. Reuben, you can confirm that this was recorded after your arrest.

**Mr. Reuben Monda:** It started in the farm when I was---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I am saying the video we are referring to.

**Mr. Reuben Monda:** Yes. It started being recorded when I was in the farm.

*(A video clip was played)*

**The Temporary Speaker** (Sen. Veronica Maina): Mr. Reuben Monda, you will wait until you are asked questions. That is when you respond. Let us have the translator give us the translation of what has happened.

**The Interpreter** (Mr. Duncan Aguga): Thank you, Madam Temporary Speaker. My name is Duncan Aguga, a professional journalist from Kenya Broadcasting Corporation (KBC), under *Minto FM*. I am ready for interpretation.

Please, replay that.

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): It is a narration by a reporter. He says the Deputy Governor Robert Monda is in conflict with his brother on the cutting of trees.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): We can proceed.

*(A video clip was played)*

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**The Interpreter** (Mr. Duncan Aguga): According to Reuben, he says the land does not belong to the Deputy Governor and they are going to confirm it from their father.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Proceed.

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): The narrator says Reuben got a surprise for his arrest until when he was taken to the police station. He was not aware of the arrest.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): We proceed.

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): Reuben says that he admits facts that his brother, the Deputy Governor, raised him well when he was young. Then on that same day, he went to cut down the trees, which he planted himself.

*(A video clip was played)*

**The Temporary Speaker** (Sen. Veronica Maina): Pause the video.

**The Interpreter** (Mr. Duncan Aguga): Reuben is saying that his brothers will confirm that the land and the trees belong to him. There is a piece of land owned by the Deputy Governor, but Reuben owns the land.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Proceed.

*(A video clip was played)*

We can stop there.

**The Interpreter** (Mr. Duncan Aguga): Mr. Reuben confirms that he planted some trees for the Deputy Governor. On that same day, the trees he cut were his and not for the Deputy Governor.

**Sen. Orwoba:** On a point of order, Madam Temporary Speaker. I have the benefit of understanding the language because I come from Kisii County. I request that he translates word for word because what he is translating is his understanding. Perhaps they should play it in small bits, so that he tells us what he is saying. What he is doing is giving us his understanding.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Omogeni, I need your comment on that.

**Sen. Omogeni:** We always appreciate expert witnesses, like the one who is at the dock. I, however, agree with Sen. Orwoba that there some words that are missing in the translation. I would rather he gives us a direct translation other than what he thinks he has captured from the speech.

I can give you an example. There is a place where it was being alleged. I am using the word “alleged” because that is what was being said, that council *askaris* and police officers were sent to arrest him. However, that did not come out when he was giving us the translation in English.

**The Temporary Speaker** (Sen. Veronica Maina): Expert witness, just repeat exactly what is said in the video clips without transposing your understanding. Do not transpose to your understanding.

So, we will play back and get to hear it. Make it shorter so that he is able to capture what needs to be understood.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, we are done with this video. However, if you want us to play it back, we can do that.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, I have guided you. Play it back then he is going to listen and translate the correct version of what is said in the video.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, I hope this does not eat into our time.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, I have given direction. Just go back. The time will be taken care of.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): We can play the video?

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): The narrator says the Deputy Governor of Kisii County got himself into a conflict with his brother because of cutting trees.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Proceed.

*(A video clip was played)*

Pause it.

**The Interpreter** (Mr. Duncan Aguga): Mr. Reuben is having an argument with the Deputy Governor asking him whether the trees belong to him. He is saying he is the one who planted the trees.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Proceed.

*(A video clip was played)*

**The Temporary Speaker** (Sen. Veronica Maina): Pause it.

**The Interpreter** (Mr. Duncan Aguga): Mr. Ruben is arguing with his brother the Deputy Governor, he says that the Deputy Governor is claiming all the land from the road down and he is saying that they will know the truth today from their father.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Proceed.

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*(A video clip was played)*

Pause.

**The Interpreter** (Mr. Duncan Aguga): Here, the narrator says that Mr. Ruben said that he went to cut down the trees and then after cutting the tree, he got a surprise from the police officers who came to arrest him because he was cutting down the trees.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Proceed.

**The Interpreter** (Mr. Duncan Aguga): He was arrested on that same day he was cutting down the trees and taken to the police station in Keumbu.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is this the narrator saying?

**The Interpreter** (Mr. Duncan Aguga): Yes, it is the narrator saying that.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Can we proceed?

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): Mr. Ruben is saying that his brother raised him while he was young; and that the same morning – He is confirming that he went to cut the trees in the morning, in order to add some more trees on that place.

*(A video clip was played)*

He is saying that they can confirm from their brothers that the trees belong to him and he is the one who planted them. He is insisting that he is the one who planted the trees.

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): He is saying that there is some part of the land where he planted trees for the Deputy Governor and the Deputy Governor was to pay him the amount of Kshs6,300 for the trees he planted.

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): The narrator says that Mr. Reuben got a surprise because his brother the Deputy Governor ordered the police to come and arrest him and yet, he was just cutting down the trees that he planted.

*(A video clip was played)*

**The Interpreter** (Mr. Duncan Aguga): Mr. Reuben is saying that, previously, the Deputy Governor has been cutting down the trees for about four times, but on that same

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day, Mr. Reuben was cutting down the trees on the boundary between him and his brother's land.

*(The video clip was paused)*

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay, thank you. Mr. Reuben, I must ask you a few questions based on what we have watched so far.

Do you agree with me that in that clip, you do agree that you planted trees for the Deputy Governor?

**Mr. Reuben Monda:** I said that I planted the trees in the year 2003-2005 when I was a manager at Kiamokama Tea Factory.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Do you agree? It is a 'yes' or 'no' question.

**Mr. Reuben Monda:** No, I did not plant for him because he did not give me the money.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You did not because he did not give you the money?

**Mr. Reuben Monda:** He did not give me the money so I did not plant for him.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You planted for him?

**Mr. Reuben Monda:** I did not plant for him. I planted for myself because he did not give me the money.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): According to your own statement, do you also confirm that the trees you are cutting were at the boundary between your property and the Deputy Governor's property?

**Mr. Reuben Monda:** I am talking about the boundary. He used to dig on one side, sometimes back. I was digging the other side. I told him to give me money to go and buy seedlings, so that I could plant for him on the side he was digging, but he did not.

I bought the seedlings myself. I came, planted and told him to give me Kshs6,300, but he did not. So, how did the trees become his?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You planted them on his portion?

**Mr. Reuben Monda:** I planted the trees on the whole portion where he had been digging for long time and at that time.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay, so you planted on his portion. We can stop there. I will ask you about this video and the statement that you made.

**Mr. Reuben Monda:** Pardon me?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): The video we were watching.

**Mr. Reuben Monda:** Yes

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was this recorded before or after your arrest?

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**Mr. Reuben Monda:** Madam Temporary Speaker, this is the same day I was arrested. This is at the Keumbu Police Station, where I made this statement.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You are sure of that fact?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Keumbu Police Station is the same place in your affidavit where you fell sick?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have five minutes

**Mr. Reuben Monda:** I felt very sick after the ordeal.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): On the same day while you were outside giving statements?

**Mr. Reuben Monda:** I said after one and a half weeks because---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will direct you to your affidavit. Maybe your counsel can show it to you? Do you have a copy? That is even better.

On paragraph nine, you say-

“18.30 hours the OCS Keumbu denied me bail despite suffering from high blood pressure and diabetes, and I was transferred to Kisii Teaching and Referral Hospital”.

So, you fell ill at Keumbu Police Station according to the affidavit?

**Mr. Reuben Monda:** Madam Temporary Speaker, I said I was sick but not as much as I was after one and a half weeks. I was using drugs; tablets only. I said that.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): If we are to believe you, this arrest did not cause you to be sick. You got sick a few weeks later.

**Mr. Reuben Monda:** I repeat, Madam Temporary Speaker. I am diabetic and I have hypertension, but I was not as sick before the ordeal. I came to realize that I became very sick when I started fighting only the sugar levels. However, the blood pressure had gone over 200 systolic.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): We can move on to the next issue. You are referred to a photo where you are shown someone in a brown--- Before I move on to the video clip, have you provided any medical documents to show that you went to Coptic Hospital and was admitted after this fact?

**Mr. Reuben Monda:** I have all the documents.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Do you have them before this House?

**Mr. Reuben Monda:** No, I do not have them before the House. If given time, I will be able to avail them.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): That is fine, you can avail them at another forum and not today. I will take you to the photo you were referred to. If the technical team can place that photo up; if they can highlight the name of that photo. The description of the photo is described as a still, having been taken out of a video, which I will play shortly. Is that possible for the technical team?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have to be more specific. Which photo are you referring to?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): It is the same photo, the one they had put up. It is okay, we can proceed to the video referred to as RS001.

**The Temporary Speaker** (Sen. Veronica Maina): As they look for that video, try to phrase the question because we saw the video.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): The video has been titled *Whatsapp@134242*.

**The Temporary Speaker** (Sen. Veronica Maina): Is it a new video or the old video that was played?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, it is part of the videos that were supplied. There were two folders, one was for photos and the other one for videos. It is the third video.

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up. I will give you two minutes to finalize.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): The video is labeled, *Whatsapp@134242*. It is the next video, not this one.

*(A video clip was played)*

You can pause the video. Mr. Reuben Monda, you said they were county enforcement officers during your arrest. The photo you have shown us originated from this. Can you identify those county officers you are referring to in the video, from which that still was pulled?

**Mr. Reuben Monda:** Madam Temporary Speaker, the photos he is showing here are the ones, when I was being rushed by the police to Kisii. None of the county officers went to Kisii apart from one who was in a brown shirt. There is another clip where there is one I saw and identified positively as one of the officers from security. The rest we are seeing are police officers.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Do you know the name of this police officer; this person you are identifying as a county enforcement officer?

**Mr. Reuben Monda:** I know him by appearance. I do not know him by name.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was he wearing uniform from the county?

**Mr. Reuben Monda:** Let me answer. The person we are seeing in the clip is from the revenue department. The officers came with the security guards plus the revenue officers. The one we are seeing in the clip is a revenue officer.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Your story has changed from compliance to revenue officer.

**Mr. Reuben Monda:** I have not changed. They were county workers; they came about 20 of them.

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**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Kindly, let me ask you the last question. You have indicated that you live in one communal farm, yourself and your brothers.

**Mr. Reuben Monda:** I said compound.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): One communal compound?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does your brother keep dairy cows?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): How many dairy cows does he keep?

**Mr. Reuben Monda:** Three.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Three dairy cows?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Where exactly does he keep them?

**Mr. Reuben Monda:** Next to our communal compound.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Next to your communal compound?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): On his property?

**Mr. Reuben Monda:** The land where we are living belongs to our father. None of us has been given a piece of land. None of us; even the land where we have planted the trees belongs to our father.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I am asking you designate. The property is big. Where are these cows being kept? If I go to your compound or this House goes to your compound and they want to see the cows, you are referring to---

**Mr. Reuben Monda:** If you come, I will show you.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were these cows there before he became the Deputy Governor of Kisii County?

**The Temporary Speaker** (Sen. Veronica Maina): Mr. Reuben, you must try to answer the questions without proposing a visit to the Counsel.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you, Madam Temporary Speaker, for ---

**Mr. Reuben Monda:** Madam Temporary Speaker, what I meant is that I can show him where they are.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were the cows there before he became the Deputy Governor or they came after with the County enforcement?

**Mr. Reuben Monda:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): The cows were there before or after he became the Deputy Governor?

**Mr. Reuben Monda:** The cows were there even before.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were they still being taken care of even before?

**Mr. Reuben Monda:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were they being taken care of before he became the Deputy Governor?

**Mr. Reuben Monda:** Yes, they were being taken care of.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): He hired employees to do this?

**Mr. Reuben Monda:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): He had employees to do this?

**Mr. Reuben Monda:** He had his own employees, yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): He still has employees?

**Mr. Reuben Monda:** Now, he is using the ---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does he have employees, that is my question?

**Mr. Reuben Monda:** I have said no.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You have not said anything. Does he have employees on the property?

**Mr. Reuben Monda:** Right now, no.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, your time is up.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, he has no one on that property? That is your evidence, right?

**Mr. Reuben Monda:** He has---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): He has no one on the property? He has no employees on the property?

**Mr. Reuben Monda:** The employees who are there are the county workers. I have said they are about five workers and I see them every day.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): What do these five workers do and to be more specific –

**The Temporary Speaker** (Sen. Veronica Maina): I have indulged you.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, this is the last question.

**The Temporary Speaker** (Sen. Veronica Maina): Make that your last question.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you, Madam Temporary Speaker.

**Mr. Reuben Monda:** There are those who man the gate. They come in pairs from morning to around 6.00 p.m. in the evening, and two during the night.



**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, those are four officers? Two during the day and two during the night. Yes?

**Mr. Reuben Monda:** I am saying, there are two during the day and two during the night. Those are the ones who are manning the gate, then we have two who are called gardeners.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Yes, continue.

**Mr. Reuben Monda:** Then, we have one who cooks for the Deputy Governor. So, I am saying a minimum of five. At least, five. They can be more depending on the day.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel. Your time is up.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you, Madam Temporary Speaker. I had sort indulgence with one question because that one was in the middle of being answered. It is a simple question and it is a 'yes' or 'no' question.

Madam Temporary Speaker, I seek your indulgence.

**The Temporary Speaker** (Sen. Veronica Maina): Ask that one question and that is it.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I am most obliged. Mr. Reuben.

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have you ever supported your brother politically?

**Mr. Reuben Monda:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Do you support your brother politically?

**Mr. Reuben Monda:** Right now, no. No, I will never do it.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel. We can have examination-in-chief. How many minutes do you need?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Five minutes.

**The Temporary Speaker** (Sen. Veronica Maina): You can begin now.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Mr. Reuben, good evening. You have been shown a video where you were the one who was speaking in Kisii language, right?

**Mr. Reuben Monda:** The one who was speaking?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): There is a video that has been played.

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): And the video spoke in the Kisii language.

**Mr. Reuben Monda:** The Kisii---

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): You spoke in the Kisii language on that video.

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Do you agree with the interpretation that was given by the gentleman?

**Mr. Reuben Monda:** In some places, he was not doing well.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Would you kindly point out the issues that you spoke to? Did you mention something to do with 20 enforcement officers in that video?

**Mr. Reuben Monda:** The 20---

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): On that video, did you mention something to do with 20 enforcement officers?

**Mr. Reuben Monda:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): What exactly did you mention?

**Mr. Reuben Monda:** On the clip?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Yes, on the clip. What did you say on the clip about 20 enforcement officers?

**Mr. Reuben Monda:** I spoke in Kisii. I was asking my brother---, because this clip was done by the media, not me. If they brought the whole clip the way, it was---

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): But what did you say, Bw. Rueben? Just say what you said in the clip.

**Mr. Reuben Monda:** I was asking my brother why all the police and county workers? I was surprised. All those would not have come for me alone and I was sick.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Mr. Rueben, just repeat exactly what you said on the clip, so that the Senators can understand your version of your translation.

**Mr. Reuben Monda:** Which part of the clip do you want me to translate?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Where you mentioned 20 enforcement officers?

**Mr. Reuben Monda:** Where I mentioned 20---

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, do you mind if we replay the clip for just one minute?

**Mr. Reuben Monda:** You know; I was not telling my brother. When I was doing the affidavit, I gave the numbers, but when I was talking about that clip, I did not give the numbers.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Lastly, Mr. Reuben, on whose side were the trees that you were cutting down? On whose side of the land were they? Were they on your side of your land or were they on the side of the Deputy governor?

**Mr. Reuben Monda:** Madam Temporary Speaker, I want to be very clear about why I am here.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): I want you to just answer my question. My question is very simple. The trees that you cut down, were they on your side of the land that you have been given by your father or were they on the side of the land that the deputy governor has been farming?

**Mr. Reuben Monda:** I said the land belongs to our dad. It does not belong to me, neither does it not belong to my brother. We only showed one another you can be farming on this side and I would farm on this side. The land belongs to our dad.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Were you cutting trees down from the side of the land where you farm?

**Mr. Reuben Monda:** We stopped farming, that is why I found the land idle and I planted the trees. We stopped farming a long time ago.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): That is all for this witness, Madam Temporary Speaker.

**The Temporary Speaker** (Hon. Veronica Maina): Thank you, Counsel.

Hon. Senators, I have a list of about six Senators who would want to clarify issues. We could make it one minute for each Senator. I propose that we do not exceed two questions per Senator. Are we in concurrence?

**Hon. Members:** Yes, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Veronica Maina): Sen. Chute, proceed.

**Sen. Chute:** Thank you very much, Madam Temporary Speaker. I am saddened today. This honourable House is being turned into a family feud and disputes.

I would want to tell Mr. Reuben Monda that in African culture, we have a dispute resolution mechanism and that can be solved within the family.

I want to know if he has used that formula to at least bring this to the attention of the elders or to the Abagusii.

Two, did he report any complain to any authorities specifically, Independent Policing Oversight Authority (IPOA)?

Thank you, Madam Temporary Speaker.

**Mr. Reuben Monda:** Madam Temporary Speaker, if we were to go that way, my brother, who is older than me, is the one who should have started with that. He went for the police instead. Even our father is alive, he could have gone to him, but he started with the police.

Since I have been very sick, I have not gotten time to take any action to prove that the arrest was meant to harass, belittle and blackmail me. That is why I fell sick. I will take legal action once I feel strong enough.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Thangw'a, you may have the Floor.

**Sen. Thangw'a:** Madam Temporary Speaker, I do not know whether you will allow us to have the kind of conversational questions, just like the way the counsels are doing rather than just one long question. I want to interact with Mr. Reuben when I ask my very short questions.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed to ask the question.

**Sen. Thangw'a:** Mr. Reuben, do you have a brother by the name Enock?

**Mr. Reuben Monda:** Yes.

**Sen. Thangw'a:** Is he a supplier with the County Government of Kisii?

**Mr. Reuben Monda:** I do not know about that.

**Sen. Thangw'a:** Madam Temporary Speaker, the witness says that he wants his brother to be impeached and removed from office because he has changed since he was elected. If that wish is granted, do you think when he comes home, he will go back to his senses and become a better brother and you are going to live happily ever after?

**Mr. Reuben Monda:** Madam Temporary Speaker, I believe so because I think my brother became what he is because of the powers he is enjoying and misusing. He ended up misusing the powers and abusing his office. If he comes home, I believe he will change.

**Sen. Thangw'a:** Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wambua, you may have the Floor.

**Sen. Wambua:** Mine goes to the counsel for the Deputy Governor. On Page E8 of the DG bundle, Paragraph 43, the DG has alleged that the 65 pieces of timber, according to evidence produced, belong to him.

Has the Counsel presented evidence of ownership by a way of title deed for the land in dispute on where the trees were cut?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, from the evidence from the Deputy Governor and that of his brother, Mr. Reuben, this is communal property still under the title of the father, although, he has designated portions for each family members. That is why they have a communal homestead and several areas where they farm or plant.

I indicate, the father is still alive and he holds the title over the property.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okiya Omtatah, please, proceed.

**Sen. Okiya Omtatah:** Madam Temporary Speaker, what is coming out is that these people are like squatters on their father's land. I have a problem of understanding the question of ownership when they are squatters.

How can we apportion ownership of the trees under the circumstances where one says they bought seedlings and planted them? One of them was supposed to buy seedlings and the other plant for him. However, they bought seedlings at Kshs6,000 planted, but they were never compensated, yet they are squatters on that land. So, who is the owner of the trees?

**The Temporary Speaker** (Sen. Veronica Maina): Mr. Reuben Monda, please proceed.

**Mr. Reuben Monda:** I think the Senator is right. Actually, the owner of the trees is our father, even if I planted them. This is because he is the holder of the title deed.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Tabitha Mutinda, make it short.

**Sen. Tabitha Mutinda:** You stated earlier, when you were making your submissions, that the reason you are here is because your brother, the Deputy Governor, misused his office.

**Mr. Reuben Monda:** Yes.

**Sen. Tabitha Mutinda:** After being released after your arrest, did you make a point of making an official complaint against your brother on the issue of misuse of his position? At the same time, when I look at both of you, you are above 60 years.

**Mr. Reuben Monda:** Yes.

**Sen. Tabitha Mutinda:** In the more than 60 years of your brotherhood, have you ever taken each other to court or has any of you caused an arrest of the other in the whole duration that God has kept you?

**Mr. Reuben Monda:** Madam Temporary Speaker, I have not gotten the first part of the question.

**Sen. Tabitha Mutinda:** When you were making your submissions, you said the reason you are here today is because your brother misused his office by using his power. After you were released from the police station, did you file an official complaint of misuse of office by your brother? That is my first question.

**Mr. Reuben Monda:** Thank you, Senator. I would like to say this. I did not do it because I was sick. The only thing I did was to talk to my area Member of County Assembly (MCA) when he came to see me. His name is Hon. Steve Arika. I asked him what I could do because my brother has been doing me wrongs for a long time and I have been forgiving him.

I wanted him also to make his observations. He is the one who whispered to me that there is something like a Motion that is being moved for the removal of the Deputy Governor from office. Then he is the one who connected me to the Mover of this Motion. That is how I came to do the first thing I have done that is unheard of – the one I am talking about here.

Madam Temporary Speaker, the next one I said that when I will be well, I will move to court. Otherwise, I am here to show that my brother is misusing his power and abusing his own office. For the trees, I will move to court and the court will determine who the true owner of those trees is.

I thank you.

*(Sen. Tabitha Mutinda spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Tabitha, he said that he will move to court once he is out of this place.

**Sen. Mbugua:** Thank you, Madam Temporary Speaker. I will concentrate on the charge of abuse of office and I want the Counsel for the Assembly to respond. The Office of the Deputy Governor comes with some privileges and entitlements.

We are being told here that he has at least five officers working for him. Can the Counsel tell us whether they researched on what the Deputy Governor is entitled to?

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Also, on this accusation where 20 County officers went to the family farm, what evidence do we have that they were 20, so that when we are interrogating this matter, we can ascertain who is telling the truth?

**The Temporary Speaker** (Sen. Veronica Maina): Counsel?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Madam Temporary Speaker. Yes, it is true that there is a question of trees involved, which the witness clearly states that if we were to go as the title dictates, then they would belong to their father. However, that is not where the case is, the case is in the abuse of office by the Deputy Governor.

That is why we requested the Senate today to issue summons against the Director, Enforcement, to come and confirm to us whether he did any investigation to confirm whether the 20 were there. It will surprise you tomorrow morning if God grants us our health that, yes, it is true that evidence will be tendered.

Most obliged, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Lomenen.

**Sen. Lomenen:** Thank you, Madam Temporary Speaker. I want to ask Mr. Reuben Monda, when did his brother, the Deputy Governor, begin misusing powers of his office and does he know that he was once an MP?

Secondly, since you became sick, has your brother provided you with any medication?

**Mr. Reuben Monda:** Thank you, Madam Temporary Speaker. I said that when my brother was an MP, he never had problems with us. However, he started being very rough with us, including our old father, once he became the Deputy Governor.

I also said that it is me who shouldered all the medical bills. My brother has never even talked to me concerning this or told me sorry up to this time we are seated here.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Proceed, Sen. Betty Montet.

**Sen. Betty Montet:** Thank you, Madam Temporary Speaker. On the same issue of abuse of office, I would wish to ask Mr. Reuben to confirm whether the brother, the Deputy Governor, still has county employees at this farm to date. If not, until when were they deployed there, since he told us that he sees them every day or that they are neighbours?

**Mr. Reuben Monda:** Thank you, Madam Senator. The security officers at the main gate still come. I said some come at night, who sleep in one of the houses in our communal compound.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Orwoba.

**Sen. Orwoba:** Thank you, Madam Temporary Speaker. I have two questions; one is to the Counsel for the Deputy Governor. On the issue of going to report the case on the dispute about the trees, who is the official complainant and is there an Occurrence Book (OB) that was registered before the police were released to come and bring peace to the homestead?

My second question is to the brother of the Deputy Governor. There is a lot of talk in town about political interest. Do you have any interest to run for political office or

have you in the past declared any interest that would be conflicting to run for political office?

**Mr. Reuben Monda:** Was the first question meant for me? You said ‘Counsel,’ I do not understand.

**Sen. Orwoba:** Counsel, if you can answer. Who was the official complainant because we are told that the land belongs to the father? So, on record, who is the official complainant before the police were released to come and ensure there is peace. Is there an official OB that was registered? That was my first question.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, yes, there is an official OB that was reported at Kiangu Police Station and this is attested by the fact that Mr. Reuben was given cash bail that is tied to that particular OB. The official complainant is the Deputy Governor as he has set out in his defence. I do not have it at my fingertip.

**The Temporary Speaker** (Sen. Veronica Maina): It should be in the bundle. He says there is an official complaint. I believe it should be in the bundle if they want to use it.

Now, it is the witness to answer the second question.

**Mr. Reuben Monda:** Madam Temporary Speaker, the second one was meant for me. I want to say this: I am very sick. I have never even--- I am supposed to even do some business, but because I am sick, I stay in my house.

My brother nowadays is staying at home. He goes to his office and when he comes back, he finds me in the house. So, I cannot have any interest. That will be pure politics.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Olekina. You have one minute and not more than two questions.

**Sen. Olekina:** It is 30 seconds. Very sad for the two families on trial today. My question is to the Attorney for the Deputy Governor. I am following up with the question asked by my sister. If from what you have shown us there, the witness was arrested, why has he not been charged until today? If he has been charged, can you please clarify that?

Thank you, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, given the grand notions that we do live by of separation of powers, my client has not been involved in any way with interfering with the investigations, which are still ongoing through the National Police Service (NPS), which has its independence to deal with the jurisdiction, investigate and make the appropriate decision whether to charge or not in conjunction with the Director of Public Prosecution (DPP).

As we appear before you today, our client is not aware of any charges against Mr. Reuben.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cheptumo? That should be the last speaker.

**Sen. Cheptumo:** Thank you, Madam Temporary Speaker. The issue of the trees still remains unclear to me. The land belongs to the father of Reuben and the Deputy Governor. He confirmed that they were shown the parts to cultivate by their father.

Now, if he did not do so, my question is this. The trees that you claim to belong to you and the trees that you planted for your brother, the ones that were being cut and harvested before the police came, can you lay a claim on those trees as Reuben?

**Mr. Reuben Monda:** Sorry?

**Sen. Cheptumo:** Can you claim that those trees belong to you? That is a critical question and I think Sen. Wambua was trying to raise that issue before. We should be clear that Reuben, being a witness in this case, really had a claim on a portion of the trees that were planted in his father's land.

**Mr. Reuben Monda:** I said that the trees belong to our father because my brother and I do not have a title deed. It is not our father who showed us that you will be digging here and there. It is my brother and I who agreed that he would be digging on one side, and I dig on the other side.

I came back after working in Central Province, Meru and Embu and then I went back to Kisii after a long time. When I was at Kiamokama Tea Factory from 2003 to 2005 that is when I started planting trees from that side where I used to dig a long time ago. Then I realized because that time there were no issues with my brother. I asked him, "since you were doing this other side, give me money to buy you the seedlings." He did not give me. Then I bought the seedlings and planted them. Then I told him to give me Kshs6,300.

I have said here that the issue of trees is almost a non-issue in this matter. Let us concentrate on the abuse of office and misuse of power. That is the main reason I came here.

On the issue of trees, even if we argue here, we will not come to a conclusion.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Reuben.

Hon. Senators, we have now come to the conclusion.

Counsels for the County Assembly of Kisii, I believe that is your last witness.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes. Madam Temporary Speaker, to the extent that the summons was issued. The directions of the Chair were that the witness will be led tomorrow. We then only have one witness remaining pursuant to the summons. As for today, Madam Temporary Speaker, we can rest at this time.

**The Temporary Speaker** (Sen. Veronica Maina): Hon Senators, the session will continue tomorrow. There was direction that the witness will come at 12.00 p.m.

When we resume tomorrow morning, we will have evidence by the Deputy Governor. The team from the Deputy Governor's side can prepare for that at 9.00 a.m. when we resume.

*(Loud consultations)*

Hon. Senators, please, be patient.



**ADJOURNMENT**

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, having concluded the business listed in the Order Paper of the day, the Senate stands adjourned until tomorrow, Thursday, 14<sup>th</sup> March, 2024, at 9.00 a.m.

The Senate rose at 11.36 p.m.