

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 14<sup>th</sup> March, 2024

### Morning Sitting

*The House met at the Senate Chamber,  
Parliament Buildings, at 9.00 a.m.*

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

### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, do we have quorum?

*(The Clerk-At-The-Table consulted with the Speaker)*

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, I am informed we now have a quorum. Kindly stop the bell.

Clerk, proceed to call out the first Order. Hon. Senators, kindly take your seats so that we proceed with today's business.

### COMMUNICATION FROM THE CHAIR

#### APPEARANCE OF MR. DAVID HAGGAI OYAGI AS WITNESS FOR THE COUNTY ASSEMBLY

Hon. Senators, ladies and gentlemen, as you may recall, at the sitting of the Senate held yesterday, 13<sup>th</sup> March, 2024, the Counsel for the County Assembly made a request for Mr. David Haggai Oyagi, the Acting Director, Enforcement and Compliance, County Government of Kisii, to appear before the Senate, as a witness in the hearing for

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

the proposed removal from office, by impeachment, of Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County.

I, therefore, ruled that the witness be summoned and subsequently directed the Office of the Clerk of the Senate to immediately issue the summons and facilitate the appearance of Mr. Oyagi in the Senate today, Thursday, 14<sup>th</sup> March, 2024, at noon, to produce his appointment letter and confirm if the persons who are said to be working in the Deputy Governor's home, are officials of the County Government of Kisii.

It has been indicated to me that the said witness is available this morning. I, therefore, wish to ask the Counsel for the County Assembly to confirm whether he is ready to present the witness. Are you ready to present the witness?

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

Hon. Members of the Senate, good morning? My name is Ndegwa Njiru. We continue to appear together with Mr. Mutuma, Mr. Ndegwa Mwangi, and Ms. Munyoki.

Mr. Speaker, Sir, if granted an opportunity by the Senate, we will present the witness.

**The Speaker** (Hon. Kingi): Sen. Madzayo, you may walk in and take your seat.

*(Sen. Madzayo entered the Chamber)*

Hon. Senators, that being the case, I wish to guide the Senate as follows—

- (a) The examination of the witness to take a maximum of 20 minutes.
- (b) The cross-examination to take a maximum of 15 minutes.
- (c) Re-examination to take a maximum of 10 minutes.

Upon the discharge of the witness, the hearing programme will proceed as indicated in the Order Paper, namely, the evidence by the Deputy Governor. The Senate is, therefore, accordingly guided.

Let us proceed, you may now call the witness to take the stand.

Clerk, proceed to call the next Order.

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

*(The Witness of the County Assembly (Mr. David Haggai Oyagi) was ushered into the Chamber)*

**The Speaker** (Hon. Kingi): Could you swear in the witness?

*(Mr. David Haggai Oyagi took the oath)*

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): David, good morning?

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**Mr. David Haggai Oyagi:** Good morning, Mr. Speaker, Sir.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** For the record, kindly state your name, where you work and your designation.

**Mr. David Haggai Oyagi:** Thank you, Mr. Speaker, Sir. My name is Mr. David Oyagi. I am the Acting Director of Enforcement, Kisii County Government.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** What are your roles as a Director of Enforcement?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, as the Acting Director of Enforcement, I supervise enforcement operations throughout the county. I am the overall commander of that unit of enforcement. I also ensure there is safety and protection of county properties and critical installations, among other duties.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** You are aware that you are here pursuant to the summons of the Senate?

**Mr. David Haggai Oyagi:** Yes, I am aware.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** You are aware that you are also here to respond to issues that were raised with regard to the abuse of office in the impeachment of the Deputy Governor?

**Mr. David Haggai Oyagi:** Yes, I am aware.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Have you had an opportunity to look at the issues that have been raised?

**Mr. David Haggai Oyagi:** To some extent I have done.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Now, Mr. David, there were issues that were raised regarding the deployment of county enforcement officers on two issues. One, on the issue of the arrest of one Reuben Monda, the brother to the Deputy Governor, and also the issue of four enforcement officers who have been working or doing odd jobs at this home.

Now, if we begin with the first issue, the issue of the 20 enforcement officers who have been deployed, can you address the Senate on that issue kindly?

**Mr. David Haggai Oyagi:** Thank you, Mr. Speaker, Sir. I state before this Senate that the issue of mobilization and deployment of the 20 enforcement officers came to my knowledge on 29<sup>th</sup> February, 2024, when the Motion on the Impeachment of H.E the Deputy Governor of Kisii County was being led by at the County Assembly.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Did you take any step following your knowledge?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, after learning about that occurrence and being the officer in charge of that directorate and that my officers, or my office, has been implicated in the proceedings at the Assembly, I thought it was good to do a statement to the Assembly to clarify and shed more light on that occurrence.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Following your statement to the County Assembly, did you also take any step or do any preliminary investigations?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I initiated an investigation immediately. I did a letter to my Deputy Director who is in charge of sub counties,

instructing him to provide information to my office on what exactly transpired that day, and why he did not communicate to my office earlier enough as pertaining that incident.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Did you find out how and who deployed the said officers?

**Mr. David Haggai Oyagi:** Following the report of my Deputy Director who went to the ground because I instructed him to go to the ground, he came and he wrote a report to me. He stated that the officers were mobilized and commandeered by the Sub-County Administrator of Nyaribari Chache and the Sub-County Enforcement Officer.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Was that commandeering of your officers within the knowledge of your office or the office of your deputy?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Was it legal or lawful?

**Mr. David Haggai Oyagi:** Procedure requires that the Office of the Director of Enforcement be informed of any occurrence. So, there was no communication made to me. Therefore, that was unlawful deployment.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Did you find the motivation for the Sub-County Commander to commandeer the deployment?

**Mr. David Haggai Oyagi:** Yes, from the report of my Deputy in charge of sub-counties, the person who gave instructions to the Sub-County Administrator and the Sub-County Commander is H.E the Deputy Governor of Kisii County.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Is it your evidence or statement that the Deputy Governor directly commanded to deploy the said officers?

**Mr. David Haggai Oyagi:** It is.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Mr. David, there was a clip that was played yesterday. The clip in regard the arrest of Reuben Monda, if we could have it up kindly.

As we wait for that clip Mr. David, does the Deputy Governor have the right to command, of course, he is the Deputy Governor of Kisii County. Do you think or does he have the right to command the enforcement officers?

**Mr. David Haggai Oyagi:** In civil service, there are procedures and protocols to be followed in any operation. H.E the Deputy Governor has no mandate to direct, command or give instructions directly to the enforcement officers.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): He has to follow the procedures?

**Mr. David Haggai Oyagi:** He has to follow the procedures.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Now, do you have those correspondences of the communication that you sought clarification from your deputy and his response with you?

**Mr. David Haggai Oyagi:** Yes, I have.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Would you mind supplying them to the Senate for them to look at them?

**Mr. David Haggai Oyagi:** I can, but I do not have enough copies.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): All right, the arrangements will be made.

Now, kindly play the clip. That clip Bw. David, it was introduced yesterday by one Reuben Monda.

*(A Video Clip was played)*

Kindly, pause there. We want to see the police vehicle. There, thank you. In that vehicle, are you able to identify the person who is seated at the rear left side?

**Mr. David Haggai Oyagi:** Yes, of course.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): How are you able to identify him?

**Mr. David Haggai Oyagi:** The person on the rear left side of the vehicle is wearing county enforcement uniform for the County Government of Kisii and that is my officer by the name Alfred Monda. This is the Deputy Sub-County Commander of Nyaribari Chache Sub-County.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Now, this is during the arrest of Deputy Governor's brother. Do those officers or rather, did Keumbu have the capacity to have 20 officers around for purposes of being deployed to such an occasion?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, my records and my strength at Keumbu is 22 enforcement officers.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): How many?

**Mr. David Haggai Oyagi:** Twenty-two enforcement officers.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): So, there were officers to be commandeered?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Did you confirm that is one of your officers?

**Mr. David Haggai Oyagi:** That is my enforcement officer. I confirm.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Now, we move on to the next issue Bw. David. The issue of the four officers who are mentioned to have been working and doing odd jobs at his residence, what do you have to say, Bwana David?

**Mr. David Haggai Oyagi:** The issue of the four enforcement officers working at the home of H.E the Deputy Governor; I am aware of it and it came to my attention much earlier even before the motion before the County Assembly. I state that there is no official document towards sanctioning that deployment in my office.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Is the Deputy Governor entitled to any county officers to work under him?

**Mr. David Haggai Oyagi:** There is no provision.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): There is no provision for entitlement, but is he also entitled to his own personal staff who are paid by the county?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Are those personal staff part of county enforcement officers?

**Mr. David Haggai Oyagi:**No.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): There are two separate people. There are those who were employed by the county as personal staff who work under him.

**Mr. David Haggai Oyagi:** Yes, hon. Speaker.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Are those the people we are talking to before this?

**Mr. David Haggai Oyagi:** We are talking about the four enforcement officers.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Who are separate to the personal staff?

**Mr. David Haggai Oyagi:** Who are separate to the personal staff.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Is it legal for him also to deploy? If so, is there a scope of work that they should be engaged in?

**Mr. David Haggai Oyagi:** Enforcement officers have clear job descriptions and their role is entirely the provision of security.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Bwana David, before I cede my few minutes to my colleague, Mr. Mutuma, I want to make reference to the County Government document.

Hon. Members, I am referring to the bundle for County Government, Volume 1 at page 313.

That is a statement that you did to the County Assembly, Bw. David Haggai. Correct?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): You stated that it came to your knowledge during the impeachment.

**Mr. David Haggai Oyagi:** Yes, I confirm.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): I just want you to clear the air, why it came to your knowledge during the impeachment.

**Mr. David Haggai Oyagi:** As usual, any other operations concerning enforcement officers, the officers need to report to my office. We have a *WhatsApp* wall, where all other occurrences are recorded. However, pertaining to this incident of 23<sup>rd</sup> December, I want to state that there was no information to my office, and that is not usual.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Thank you. Mr. Speaker, Sir, I also request that we play the video where the witness who left yesterday

evening, Mr. Rueben Monda, was addressing the media, kindly. Just the very few first seconds of that video. This video is in the Ekegusii language.

*(A Video was played)*

Kindly pause there. I know we and also Members of the Senate do not understand that language. However, I believe you understand that language.

**Mr. David Haggai Oyagi:** I do.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): What is your understanding of the statement that has been made by the reporter?

**Mr. David Haggai Oyagi:** The reporter is talking about trees.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): What else?

**Mr. David Haggai Oyagi:** The conflict between him and his brother.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Does he mention the issue of county officers?

**Mr. David Haggai Oyagi:** Can we replay it?

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Kindly replay the clip.

*(A Video Clip was replayed)*

Kindly, pause. What is your understanding of that video, Bwana Director?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I can see the first person and there is a reporter. The person on television is not talking about enforcement officers or county staff. The person who is talking about enforcement officers is the narrator of the story. However, the complainant is complaining about his arrest using police and enforcement officers.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Thank you, Bw. David. This clip was interpreted yesterday. I invite the House to also have a look at it independently.

I cede my few minutes to Mr. Mutuma to guide you through.

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

**The Speaker** (Hon. Kingi): Just hold on counsel. What is your intervention, Sen. Kathuri?

**Sen. Kathuri:** Mr. Speaker, Sir, because I am participating in this quasi-judicial court as a judge, yesterday, we were privileged to get a very good interpreter who was neutral. He interpreted the language nicely.

I am not aware why he is not available today. I want to trust an independent and professional interpreter who can give us the right message so that as we make our determination, we can understand what was spoken in Ekegusii language.

**The Speaker** (Hon. Kingi): Very well.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Speaker, Sir, if I may, our worry was that---

**The Speaker** (Hon. Kingi): Just pause there, counsel. We would wish to be guided by an independent interpreter on the content of that video, not to the understanding of your witness.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Mr. Speaker, Sir. Our worry was that the interpreter, the very specific one who came yesterday, misrepresented the version. If we can have a different one, that would be most obliged, because we seem to be having two different versions of the same story.

**The Speaker** (Hon. Kingi): I am informed we had two interpreters yesterday. Can we have the second one to interpret this video for the hon. Senators, please? Then, your witness can put it in context.

Counsel, let me just get you correctly. Are you saying that the interpreter who interpreted this video yesterday, did not interpret it correctly?

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

**The Speaker** (Hon. Kingi): According to who?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): According to the people well-versed with the Ekegusii language, that was the indication. Perhaps we can hear from another source if they will stick to the very version of the other interpreter.

**The Speaker** (Hon. Kingi): Counsel, allow the video to play and then let us get the interpretation. Yes, Counsel for Deputy Governor.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Speaker, Sir. We have an objection to that. Our objection is in the sense that we will be going in circles. You will recall that the interpreter did an interpretation initially. Objections were raised by Members of this Senate saying that that interpretation was not correct. The interpreter was then given a second chance to interpret and the whole process went to the end.

The hon. Members who had raised an objection and who understood Kisii did not raise an objection neither did the counsels for the County Assembly. Now, to ask for the third time for an interpretation will not be designed to get the proper interpretation, but designed to get the interpretation that the county Assembly counsel want. It is not intended to know the exact position, but rather their position.

For that reason, we contend on our part that the interpretation has been adequately supplied. There is no point in wasting and spending time in hunting out for the type of interpretation that the county counsel want.

**The Speaker** (Hon. Kingi): Very well. Counsel for the County Assembly, there was an interpreter who did interpretation yesterday. Is that correct?

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

**The Speaker** (Hon. Kingi): Therefore, as the team from the County Assembly, you were adequately covered in terms of the interpretation that was done yesterday?



**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Speaker, Sir, none of the counsel is versed with the Gusii language. At the moment, it was not brought to our attention that the interpretation was not correct. Thereafter, that information came to our knowledge. It is only fair that we give another interpreter an opportunity to do that. I do not see any prejudice that will be suffered by the team representing the Deputy Governor.

**The Speaker** (Hon. Kingi): Counsel for the County Assembly?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): We cannot have several versions of the interpretation. An interpreter is an interpreter. If this video was given its true interpretation yesterday, the matter rests.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Most obliged, Mr. Speaker, Sir. However, I would urge you once you retreat to consider this matter in camera, you can have your own consideration based on Senators who are well versed with the language. I stand guided.

**The Speaker** (Hon. Kingi): Good, then just proceed with your witness. We do not have to hear another version of Gusii language. Gusii language is one.

Sen. Onyonka, Gusii language is one, or do we have several versions of Gusii language?

**Sen. Onyonka**: Mr. Speaker, Sir, Gusii language is one. The interpretation that was given made me understand. I did not see any contradiction and I was not misguided.

**The Speaker** (Hon. Kingi): Proceed with your witness.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Haggai, do you have any personal interest---

Mr. Speaker, Sir, I am not sure whether I can be heard.

**The Speaker** (Hon. Kingi): Clerk, kindly power the counsel's microphone.

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

Mr. Haggai---

I still feel it is quite low.

Mr. Witness, do you have any personal or ulterior interest in these proceedings?

**Mr. David Haggai Oyagi**: No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Have you been coerced, influenced or persuaded to take a certain stand towards the deployment of the officers that you are alleging were deployed on 20<sup>th</sup> December?

**Mr. David Oyagi**: Not at all.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When did you receive the summons from Senate?

**Mr. David Haggai Oyagi**: I received the summons yesterday.

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

**Mr. David Haggai Oyagi**: They were served to me.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How were you served?

**Mr. David Haggai Oyagi:** By the server of the Court, he called me.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): When did you travel from Kisii to Nairobi?

**Mr. David Haggai Oyagi:** I travelled tonight.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. You have told the Senators that the information about the deployment of the 20 officers came to your knowledge on 29<sup>th</sup> February, 2024. The event itself---

**Mr. David Haggai Oyagi:** Sorry, Counsel. There is an initial question that you have not understood clearly. Can you repeat the question about the travelling? Do you mean travelling from where I stay or from Kisii?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): From wherever you were to Senate.

**Mr. David Haggai Oyagi:** I travelled today morning from where I reside.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have indicated that the information about the deployment of the 20 officers to the Deputy Governor's home to arrest his brother came to your knowledge on 29<sup>th</sup> February, 2024, correct?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): The event itself took place on 20<sup>th</sup> December, 2023. That is two months apart.

**Mr. David Oyagi:** Correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Now, as the Head of this Department, how is it that 20 officers would be deployed, taken from your Department to a private assignment without your knowledge? Does that not mean that you are inept, you are not in charge of this Department?

**Mr. David Haggai Oyagi:** Not at all. You see, this is an occurrence which is happening at the home of the Deputy Governor. I learnt about it at the County Assembly when the Motion was being tabled. That is the first time I heard about it.

As I said earlier, this is unusual because all operations of enforcement need to be reported to my office. That is why I tasked my deputy to investigate this incident and report to me. In the report that the deputy gave me, he said, the reason the sub-county administrator and commander did not report is not very clear and they have initiated disciplinary procedures against those officers.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, is it an issue of lack of diligence or competence from your part or there was deliberate effort to conceal that occurrence?

**Mr. David Haggai Oyagi:** I believe there could be deliberate effort to block us from getting the information.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. You have also indicated that you have conducted preliminary investigations and there is a preliminary report to that effect.

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to tell the hon. House the names of the four officers that you are claiming are assigned at the Deputy Governor's office doing odd jobs? What are their names?

**Mr. David Haggai Oyagi:** I can confirm that the four officers are there and they work on a regular basis. After two weeks, they are replaced and they are deployed from--

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to tell us the names of those officers?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Kindly go ahead.

**Mr. David Haggai Oyagi:** All of them?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): The four officers.

**Mr. David Haggai Oyagi:** I have said, the sub-county has 22 enforcement officers. The duty roster is usually done after a period of one or two weeks. So, they keep on rotating.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to tell the names or not?

**Mr. David Haggai Oyagi:** For now I cannot because investigation is underway.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to identify the 20 officers apart from the commander?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to supply the names?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you able to supply the names now?

**Mr. David Haggai Oyagi:** Not now because they are not typed.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do you have their names?

**Mr. David Haggai Oyagi:** I have the names.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Mr. Speaker, Sir, that is all for this witness.

**The Speaker** (Hon. Kingi): Counsel for the Deputy Governor, your witness.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Speaker, Sir, a preliminary issue; we have not been served with this report that is being referred to by this witness. If we can get a copy.

**The Speaker** (Hon. Kingi): Counsel for the County Assembly, can you make available the copy of the report you are referring to?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Speaker, Sir, with your guidance, we do have the reports. We are also seeing them for the very first time. However, we are obliged to serve our colleagues and later make arrangements to supply it to the House.

**The Speaker** (Hon. Kingi): Clerk, can you make that report available to the hon. Senators?

Proceed, Counsel.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Oyagi, you have stated that you are the Head of Compliance.

**Mr. David Haggai Oyagi**: I am the Head of Enforcement and Compliance.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): In an acting capacity or permanently employed?

**Mr. David Haggai Oyagi**: I am serving in an acting capacity.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Under whose pleasure do you serve?

**Mr. David Haggai Oyagi**: I serve the County Government of Kisii, not an individual.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Who leads it?

**Mr. David Haggai Oyagi**: The County Government of Kisii is led by His Excellency the Governor.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So you serve at the Governor's pleasure.

**Mr. David Haggai Oyagi**: I serve the County Government of Kisii.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will refer you to the two reports. Are they three or two reports?

**Mr. David Haggai Oyagi**: They should be three.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. In a chronological manner, let us start with one from 1<sup>st</sup> March. You can refer to that one.

Mr. Speaker, Sir, and Members of the House, I know you do not have the benefit of having the copies, but the questions I ask do not go into the specifics. Can I proceed?

**The Speaker** (Hon. Kingi): Proceed.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Do you have the letter of the 1<sup>st</sup> March, 2024?

**Mr. David Haggai Oyagi**: I only had that copy, but you can proceed.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): In that copy, do you indicate the officers who were mobilized and deployed to the Governor's house?

**Mr. David Haggai Oyagi**: At that time, it was an allegation.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): No. Do you indicate who these officers are? Are their names indicated?

**Mr. David Haggai Oyagi**: I did not indicate the names, but I gave---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): This is a simple question. Did you indicate their names?

**Mr. David Haggai Oyagi**: No.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. Yes, Sen. (Dr.) Khalwale.

**The Speaker** (Hon. Kingi): Counsel, you are not addressing individual Senators. Kindly cross-examine the witness.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Most obliged.

Let us go to the letter of 4<sup>th</sup> March. Does it indicate the 20 officers who were mobilized and deployed to the Deputy Governor's house?

**Mr. David Haggai Oyagi**: It does not indicate, but it indicates that the officers are those who were attached to the Nyaribari Chache Sub-County.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does that letter indicate that?

**Mr. David Haggai Oyagi**: It does not indicate the names of the officers.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does it indicate their current mobilisation or location?

**Mr. David Haggai Oyagi**: I believe it does.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Please refer to the same and show us where it does that.

**Mr. David Haggai Oyagi**: The author of this letter says-

"Indeed, on 20<sup>th</sup> December, 2023, our enforcement officers, about 20, were mobilized and deployed to His Excellency the Deputy Governor's home, led by the Sub-County Administrator."

The Sub-County Administrator is for Nyaribari Chache Sub-County.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Yes, but does it say that 20 officers were actually from his unit? Does it say that?

**Mr. David Haggai Oyagi**: The officer who was doing this letter---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): It is a simple question. Does it say that, yes or no?

**Mr. David Haggai Oyagi**: He is in charge of sub counties.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does it say these officers are from his sub-county? That is the question. Nothing more.

**Mr. David Haggai Oyagi**: Hon. Speaker, Sir, the author of this letter is not---

**The Speaker** (Hon. Kingi): Witness, these are very simple questions that attract either yes or no. Let us proceed so that we do not waste time.

**Mr. David Haggai Oyagi**: Mr. Speaker, Sir, I am well guided.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Let us go to the last report. This is the one you have made. So, from that letter, is that a yes or no? Does it indicate where they are deployed?

**Mr. David Haggai Oyagi**: No, it does not.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. Let us go to the report of 8<sup>th</sup> March. Does it indicate the officers?

**Mr. David Haggai Oyagi**: It does not indicate the names of the officers.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does it indicate the name of the officers who are deployed on the 20<sup>th</sup> December?

**Mr. David Haggai Oyagi**: It does not.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Does it indicate the names of the officers who have been deployed at the Deputy Governor's house, as you allege?

**Mr. David Haggai Oyagi:** It does not.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. So, there is no way for this Assembly to know that officers were deployed on the 20<sup>th</sup> December or are currently deployed at the Deputy Governor's house?

**Mr. David Haggai Oyagi:** The House is able to know because---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is there a way to identify them from your reports?

**Mr. David Haggai Oyagi:** I can supply the names.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): No, as we stand here, is there a way to identify them?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay.

Let us move to the issue of the four officers who were deployed at the Deputy Governor's house. Your testimony was that you learnt of this before the impeachment proceedings.

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were these officers sent or deployed there by yourself?

**Mr. David Haggai Oyagi:** I said they were not officially deployed because there is no official document in our records.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, are these officers deployed to another place? Are they assigned another duty in the county?

**Mr. David Haggai Oyagi:** What I meant is that the officers are taken to do a distinct---

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): In your department, are there officers who are not assigned to specific duties?

**Mr. David Haggai Oyagi:** All officers are assigned specific duties and with letters?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, these four officers have been assigned duties elsewhere and they are not doing those duties but have moved to the Deputy Governor's. Is that your evidence?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I would like to state that the deployment must be documented.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): However, you are saying they are not deployed to the Deputy Governor's.

**Mr. David Haggai Oyagi:** They are deployed with no documentation.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): What do you mean that they are deployed without documentation?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, when deployment is done, there has to be an official deployment letter.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. As their supervisor, have you taken any disciplinary action against these people who have been deployed with no letters?

**Mr. David Haggai Oyagi:** I have complained in writing to my supervisor.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Is that letter of complaint before this tribunal?

**Mr. David Haggai Oyagi:** No. Mr. Speaker, Sir. It is not.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** In reference to the allegations of the deployment of 20 officers on the 20<sup>th</sup> December, you have said that you only learnt about it on the 29<sup>th</sup> February.

**Mr. David Haggai Oyagi:** Exactly.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Before that, were you aware of the Motion to impeach the Deputy Governor?

**Mr. David Haggai Oyagi:** I learnt about the Motion after following the proceedings of the Assembly.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Before that, you did not know that there was a Motion going on at Assembly?

**Mr. David Haggai Oyagi:** I did not know.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Did you hear about any public participation with regard to the charges that were facing the Deputy Governor?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I do not work at the Assembly.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** No. I am asking, did you hear about it as a person living and working in Kisii County?

**Mr. David Haggai Oyagi:** I heard there was a public participation, but I did not bother to ask what it was about.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Even when it allegedly involved 20 of your officers?

**Mr. David Haggai Oyagi:** I learnt about 20 of the officers at the Assembly.

**The Counsel for the Deputy Governor (Mr. Kelvin Michuki):** Okay. Thank you, Mr. Oyagi. I will cede my remaining time to Senior Counsel, Mr. Katwa Kigen.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Thank you, Mr. Speaker, Sir. Good morning, Mr. Oyagi.

**Mr. David Haggai Oyagi:** Good morning.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** It is your testimony to this Senate that where you stand, both the officers who went, the 20 and the ones who were deployed, were not properly designated to do those respective things from your record.

**Mr. David Haggai Oyagi:** They did.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Okay. For purposes of making that contention to this Senate, you referred to a certain record, is that not so?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the Deputy Governor (Mr. Kitwa Kigen):** What was that record?

**Mr. David Haggai Oyagi:** The report that I got from my Deputy.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, when you say they were not deployed, is it a document or just word of mouth from the Sub County Ward Administrator?

**Mr. David Haggai Oyagi:** You know the procedure of deployment---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just answer. Do you have a record of your deployments? Let me ask it like that.

**Mr. David Haggai Oyagi:** The record is not there.

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

**Mr. David Haggai Oyagi:** Nothing like that because they were not properly deployed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you have a record of all your enforcement officers?

**Mr. David Haggai Oyagi:** Yes, I have.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you annexed it to any of your documents?

**Mr. David Haggai Oyagi:** Right now, no.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you do not have the record of the totality of your officers. Are those officers designated to do certain duties?

**Mr. David Haggai Oyagi:** Enforcement officers are supposed to do enforcement duties.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just answer my question. Is the total population of the enforcement officers in your portfolio assigned duties?

**Mr. David Haggai Oyagi:** They are assigned duties.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is there a record showing that this one is supposed to be at the hospital, the stadium or the county offices?

**Mr. David Haggai Oyagi:** Yes, there is.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is true that you have not brought that to the Senate?

**Mr. David Haggai Oyagi:** The summons---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Please answer my question. For purposes of saying 20 people went to the Governor's brother's house and that there are people working at the Deputy Governor's house that were not meant to be there. Have you brought the deployment records showing where those people were supposed to have been deployed?

**Mr. David Haggai Oyagi:** No. Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You said that one of the criteria that you used to come and testify to this Senate is that there were no letters of deployment. Is that so?

**Mr. David Haggai Oyagi:** They were not officially deployed.



**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you use the word “letters of deployment” a few minutes ago?

**Mr. David Haggai Oyagi:** Yes. About the officers.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, the 20 plus the four, have you brought us the deployment letters so that this Senate can know clearly that this person who went to the Deputy Governor’s house or the one working at the Deputy Governor’s house had a letter of deployment to a different place, but is erroneously in a different place? Have you given us their letters of deployment?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you have a Human Resource (HR) Manual at the County Assembly?

**Mr. David Haggai Oyagi:** Yes. Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have not given us that manual, have you?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Who are the enforcement officers answerable to?

**Mr. David Haggai Oyagi:** Enforcement officers are answerable to me as the head of enforcement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is what the HR manual says that they are answerable to you?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In the body of that manual, is there anywhere, which designates the Deputy Governor as one of the people to whom they are answerable to?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Lastly, you say that you have come here to tell us what the sub-county ward administrator told you. Is that it?

**Mr. David Haggai Oyagi:** He is my deputy in charge of sub-counties.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is not the question I have asked you. I have asked you, as you stand here, your testimony to this Senate is what the sub-county ward administrator told you.

**Mr. David Haggai Oyagi:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is based on?

**Mr. David Haggai Oyagi:** On my deputy who is in charge of sub-counties.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How did he get that information again?

**Mr. David Haggai Oyagi:** He did investigations.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then he communicated to the sub-county ward administrator?

**Mr. David Haggai Oyagi:** He communicated to the sub-county administrator and not the Ward Administrator.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): If we really wanted to know for a fact that indeed 20 people went to the Deputy Governor's house and that there are people not deployed there, the best person would have been that sub-county ward administrator. That is the person who has the raw information because he was in that vicinity. Is that it?

**Mr. David Haggai Oyagi:** Yes, but he failed to report.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is not what I have asked you. I am saying that is the person who would have told this Senate directly that I know for a fact, that there are four people working there who are not designated to work there and there are 20 people who went to the Deputy Governor's house. That is the person who would say that, from personal knowledge.

**Mr. David Haggai Oyagi:** The enforcement officers---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Please understand my question. My question is, the person who has personal knowledge of whether or not there are four people working at the Deputy Governor's house and whether or not, 20 people went to effect arrest is the sub-county ward administrator. That is the person right on the ground?

**Mr. David Haggai Oyagi:** There is a sub-county commander who reports to me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. So, who is the most immediate person to the vicinity of the house of the Deputy Governor and who would know which people went to his house?

**Mr. David Haggai Oyagi:** The sub-county enforcement commander.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is the person who would have told this Senate directly what happened. Is that it?

**Mr. David Haggai Oyagi:** The sub-county commander reports to me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On the question of the witness, that would have been the best witness for the Senate to know whether what you are saying is true or not. You are telling us what you were told and it is not what you know.

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I am in charge of the Directorate of Enforcement.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What you are telling this Senate is what the sub-county enforcement commander told you?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I know my colleague, Mr. Mutuma asked you whether you came here under coercion or whether you were threatened and so forth. Why was it necessary to be careful about that and they take precaution that you do not been seen as a weaponized witness?

**Mr. David Haggai Oyagi:** I am in charge of---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am just asking why are you defensive when nobody has made any accusation against you? Why is there that defensive sense that you might have been a weaponized witness?

**Mr. David Haggai Oyagi:** I learned that my Directorate of Enforcement is implicated in this case.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Is it not true that the sub-county enforcement commander knows for a fact that the four people working at the Deputy Governor's place are designated to do that job and was not ready to come and lie and that you are the only who was available to give the distorted truth of the fact?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I came here as the in-charge of Enforcement and Compliance.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Why did the person who knows not come?

**Mr. David Haggai Oyagi:** I take responsibility as the in-charge.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I put it to you that it is because you are more malleable and that you have been acting for forever and you are hoping that by giving this testimony, you will graduate into a confirmed position.

**Mr. David Haggai Oyagi:** That is not true.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** As we speak today--

Mr. Speaker, Sir, can I have three minutes, then I will be done.

**The Speaker (Hon. Kingi):** Very well counsel, conclude in the next three minutes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Thank you, Mr. Speaker, Sir.

As we speak today, do you know where all the population of your enforcement officers are?

**Mr. David Haggai Oyagi:** Yes, I know.

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

**Mr. David Haggai Oyagi:** This morning.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, before that, when you are acting and were deputy, you did not know where your people were, including the 20 that went to arrest and the four that were at the Deputy Governor's?

**Mr. David Haggai Oyagi:** You asked as I am standing here.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Before that, did you know?

**Mr. David Haggai Oyagi:** I know.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did you know?

**Mr. David Haggai Oyagi:** I know.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I am not asking about today. We are talking about your testimony saying that there are four people in the Deputy Governor's place you did not know about.

**Mr. David Haggai Oyagi:** I know about the four and I said here that I complained to my boss.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** When, after the Impeachment Motion?

**Mr. David Haggai Oyagi:** Before the Impeachment Motion.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Have you given us any document showing that you had raised any issues before that?

**Mr. David Haggai Oyagi:** No, but I can provide evidence.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Lastly, did you say that the Deputy Governor is not entitled to be designated any staff to assist him? Is that your position?

**Mr. David Haggai Oyagi:** I talked about the enforcement officers. There are no provisions.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I will ask you again. Is the Deputy Governor entitled to some staff at the expense of the county?

**Mr. David Haggai Oyagi:** I know that they are entitled but not enforcement officers.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Okay. As you testify today, do you have anything to tell this Senate that indeed the people who were designated to serve the Deputy Governor, are this and this, and instead of those ones, these ones went?

Do you have anything to show that there is a variance between the people intended *vis-a-vis* the people who are actually there?

**Mr. David Haggai Oyagi:** I could not be having the evidence---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Just answer my questions directly. Do you have any document to say that Haggai was supposed to be there but instead of Haggai, it is someone else?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You do not have anything, but you agree that he is entitled to support staff?

**Mr. David Haggai Oyagi:** Yes. He is.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Mr. Speaker, Sir, thank you for the indulgence. Thank you too, Mr. Haggai.

**The Speaker (Hon. Kingi):** Counsel for the County Assembly, any re-examination?

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Mr. Speaker, Sir, I will be very brief.

David, you have been asked whether, you have identified the personal staff of the Deputy Governor and your enforcement officers. The question is, are personal staff of the Deputy Governor under your direct control?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Are you here speaking about his personal staff or your own staff?

**Mr. David Haggai Oyagi:** I came to talk about enforcement officers.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** You have also been asked whether you have brought the documents complaining about the four officers about the report that you forwarded to your boss. Correct?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Do you have your complaint letter about the four officers?

**Mr. David Haggai Oyagi:** The complaint about the four officers was done immediately I resumed office.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** Was it done before the impeachment?

**Mr. David Haggai Oyagi:** It was done before the impeachment.

**The Counsel for the County Assembly (Mr. Ndegwa Mwangi):** You have also been asked whether it is you who ought to have come here or it was your Deputy Director at the sub-county level. The question is, who complained at the County Assembly level?

**Mr. David Haggai Oyagi:** I raised the complaint.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** Are you the author of the statement at the County Assembly level?

**Mr. David Haggai Oyagi:** I am.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** Is it pursuant to that statement that you were summoned?

**Mr. David Haggai Oyagi:** That is true.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** You have also been asked about whether you have brought documents or records on deployment of 20 enforcement officers and employment letters for your officers. When did you receive the summons?

**Mr. David Haggai Oyagi:** I received the summons yesterday.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** When you did, to your understanding, what were you coming to speak to?

**Mr. David Haggai Oyagi:** I was coming to talk about deployment of enforcement officers.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** If you had enough time, would you supply those documents?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** You have also been asked whether you have done investigations correctly. Is that correct?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** The question is; what did the preliminary investigation report reveal to you to the extent that you are not able to mention the names of four officers among the 20 enforcement officers?

**Mr. David Haggai Oyagi:** The preliminary report indicates that it is true that 20 enforcement officers were mobilised and deployed to execute an operation. About the four---

**The Counsel for the County Assembly (Mr. Mwangi Ndegwa):** Are the investigations complete?

**Mr. David Haggai Oyagi:** The investigations are ongoing.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Are you able to reveal the names of the said enforcement officers at this juncture?

**Mr. David Haggai Oyagi:** I am able to reveal the names of all enforcement officers attached to Nyaribari Chache Sub County.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): My question is; while investigations are ongoing, would you compromise the investigations by revealing the names of the officers at this point?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): I believe you are a permanent and pensionable employee of the county government. Correct?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): So, who is your employer?

**Mr. David Haggai Oyagi:** Kisii County Government.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Were you recruited by the County Public Service Board (CPSB)?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): So, do you serve under the mercy of the Governor?

**Mr. David Haggai Oyagi:** No, I serve the County Government of Kisii.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): You have also been asked about the person who deployed the 20 enforcement officers. Who did you correctly put as?

**Mr. David Haggai Oyagi:** The sub-county administrator and sub-county commander.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Does the sub-county administrator have the mandate to deploy?

**Mr. David Haggai Oyagi:** No.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Is that the reason even your own deputy did not have the knowledge of it?

**Mr. David Haggai Oyagi:** Yes.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Mr. Speaker, Sir, that is all. I cede the witness to Members.

**The Speaker** (Hon. Kingi): Thank you. The witness may retire. Now, we are going to hear the case of the Deputy---

Sen. Crystal Asige, what is your intervention?

**Sen. Crystal Asige:** Mr. Speaker, Sir, I just have a point of clarification and hope that you can guide. It is with regard to the summons letter that was sent after your directive yesterday, through the Clerk's Office, for the witness to appear before us.

I would like to know whether the summons indicated or outlined the documentation and material evidence that this witness was required to appear with here this morning and if he was to bring 67 copies for each Senator, so that we understand what was required of him to bring when appearing before us.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Speaker** (Hon. Kingi): Could I get a copy of the summons so that we are clear on the contents?

Senator for Nandi, what is your clarification?

**Sen. Cherarkey:** Just a quick one to the witness. Acting Deputy Director, I have three questions only. First, when were these four officers deployed at the Deputy Governor's office? You said 20 were sent to assist in the arrest, but in your letter, you have said that they were illegally sent there. When was that? Do you have those facts?

Secondly, you have said in your report---

Mr. Speaker, Sir, I am trying to be quick. The Acting Director, Enforcement and Compliance has said that some enforcement officers doing manual work at the Deputy Governor's home is a matter under investigation. Are you aware of what the four officers were doing?

Finally, as the Acting Director, Enforcement and Compliance, have you ever visited the Deputy Governor's home to check what your officers are doing there? How long have you been acting in that position?

**The Speaker** (Hon. Kingi): Witness, proceed to respond.

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I said about four enforcement officers. I learned immediately I resumed office on 11<sup>th</sup> August, 2023. I have hitherto complained in writing. Regarding the 20 enforcement officers, it came to my knowledge when the Motion was being discussed at the County Assembly.

The issue of enforcement officers doing manual job as reported by my Deputy Director in charge of sub-counties is a matter under investigation. Once investigations are complete, I shall report to the Chief Officer (CO) in charge of my department.

Regarding visiting the home of the Deputy Governor, I visited once immediately I assumed office. That is the time I realised that four enforcement officers were deployed there without any documentation. I have complained about it.

Concerning how long I have acted, this is the seventh month since 11<sup>th</sup> August, 2023.

**The Speaker** (Hon. Kingi): Sen. Chute, do you have any question or clarification?

**Sen. Chute:** Thank you, Mr. Speaker, Sir, for the opportunity. I have two questions to the witness. How long have you been acting as Director? Secondly, who is supposed to take responsibility for the four officers who were deployed to the Deputy Governor's house? Is it the Deputy Governor or your office?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I was appointed as Acting Director of Enforcement and Compliance on 11<sup>th</sup> August, 2023. That means I have been acting for the past seven months. I take the responsibility for the four enforcement officers who are working at the Deputy Governor's home without official deployment. I have said before this Senate that immediately after I learnt about this development, I wrote a complaint letter to the CO in charge asking him to take it up.

**The Speaker** (Hon. Kingi): Sen. Wambua, what is your clarification?

**Sen. Wambua:** Mr. Speaker, Sir, this is to the witness. When exactly did you get to know about the mobilization and deployment of officers to the home of the Deputy Governor?

Secondly, according to your own records, the incident happened on 20<sup>th</sup> December, 2023, yet the first letter that you wrote on this matter was on 1<sup>st</sup> March. Why did it take too long for you to demand and explanation?

Lastly, at the time of your demand letter to your deputy, had the impeachment proceedings against the Deputy Governor started?

Thank you, Mr. Speaker, Sir.

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, I learned about the deployment of the 20 officers at the Assembly when the Motion of impeachment was being discussed. Upon learning that, as an officer who is in charge of that directorate, I felt that my department was implicated and I thought that it was prudent to take a statement and shed more light on that incident. That is on the 29<sup>th</sup> February, 2024.

The following day was the first of March. That is when I wrote a letter to my Deputy Director in charge of Sub Counties instructing him to start investigations and report to my office what transpired on that date of 29<sup>th</sup> December, 2023 explaining to me why this information did not reach our office.

On the 4<sup>th</sup> of March, my Deputy wrote to me after undertaking preliminary investigations and confirmed to me that, indeed, the 20 enforcement officers were mobilised and they assisted in the arrest of our Deputy Governor's brother at his home in Keumbu.

Why it took so long is the question that all of us need to understand. This incident is happening at the home of the Deputy Governor. My sub-county commander and the sub-county administrator are involved in this arrangement. The reason why they did not report to me, as usual, is an issue that requires further investigations and disciplinary action taken against them.

I have recommended in my letter if you can see; the letter dated 8<sup>th</sup> March, 2024 to the Chief Officer (CO). In the last part paragraph, "The sub-county administrator and sub-county commander failed to report to our office as required of them." Reason? Well known to them. I have forwarded to the CO for further action.

**The Speaker** (Hon. Kingi): Sen. Mandago?

**Sen. Mandago:** Thank you, Mr. Speaker, Sir. I would like to ask the witness, one, who is in charge of civil servants at the sub-county level? Two, what position did you serve before being appointed Acting Director for Enforcement?

**Mr. David Haggai Oyagi:** At the sub-county level, the person who is in charge of enforcement officers is the sub-county enforcement commander who reports also to the sub-county administrator. The sub-county commander reports to my office directly on matters of enforcement.

On the position I held before I became the Acting Director of Enforcement, I have been the Deputy Director of Enforcement in charge of Kisii Municipality.

**The Speaker** (Hon. Kingi): Now, with regard to the issues raised by Sen. Crystal Asige, I will read the summons so that you may appreciate the contents of the summons -



“To Mr. David Haggai Oyagi,

WHEREAS pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on Thursday 29<sup>th</sup> of February 2024, the Kisii County Assembly approved a Motion for removal from office by impeachment of Deputy Governor (Hon. (Dr.) Robert Monda of Kisii County;

WHEREAS by a letter dated Wednesday of 1<sup>st</sup> March 2023 and received in the Office of the Senate on 2<sup>nd</sup> March 2024, the Speaker of the County Assembly of Kisii informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate documents in evidence of the proceedings of the Assembly; and

WHEREAS pursuant to Section 33(5) of the County Government Act Cap 265 and Standing Order No.80(1) (b) (2) of the Senate Standing Orders, the Senate at a sitting held on Thursday the 7<sup>th</sup> of March 2024 resolved to investigate the matter in plenary within ten days;

WHEREAS following the resolution of the Senate at a sitting held on Thursday the 7<sup>th</sup> of March 2024, the Clerk of the Senate issued invitation to appear to the County Assembly and to the Deputy Governor of Kisii County inviting them to appear and be represented before the Senate during its investigations and to file with the Office of the Clerk of the Senate various documents relating to the matter; and

FURTHER by a letter referenced CAK/3/1/C/CS/002 2024 dated the Friday 8<sup>th</sup> of March 2024, Hon. (Dr.) Philip Nanyumba the Speaker of the County Assembly of Kisii in response to the invitation to appear and pursuant to Rule 10 of the Third Schedule to the Senate Standing Orders requested the Senate to summon you to appear before the Senate; and;

FURTHER, whereas by the Speaker’s ruling made during the hearing of the Senate on Wednesday the 13<sup>th</sup> of March 2024, the Senate acceded to the request by Hon. (Dr.) Philip M. Nanyumba, the Speaker of the County Assembly of Kisii on behalf of the County Assembly of Kisii;

WHEREAS Article 125 of the Constitution, Section 18 and 20 of the Parliamentary Powers and Privileges Act Cap 6 and Rule 10 of the Third Schedule to the Senate Standing Orders empowers the Senate or its Committees to summon any person to appear before it for purposes of giving evidence or providing information;

NOW THEREFORE, the Senate hereby summons you to appear before the Senate in person on Thursday 14<sup>th</sup> of March 2024 at p.m. at the Senate Chamber main Parliament buildings in Nairobi to do the following

- (a) Produce your appointment letter;
- (b) Confirm if the persons who are said to be working in the Deputy Governor’s home are officials in the county.

Take note that should you fail to attend before the Senate on the time and date specified in this summons or to produce the documentation required by the Senate, the Senate may impose upon you a fine not exceeding Kshs.500,000 or may order for your arrest pursuant to Sections 19(1) and 19(3) respectively of the Parliamentary Powers and Privileges Act Cap 6 and;

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

You shall also be guilty of an offence as stipulated under Section 27(1) (a)(I) and 27(1)(c)(ii) respectively of the Parliamentary Powers and Privileges Act Cap 6 for which you shall be liable on conviction to a fine not exceeding Kshs.200,000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Given under my hand for and on behalf of the Senate this 13<sup>th</sup> Day of March 2024.

Signed by the JM Nyegenye (CBS) Clerk of the Senate.”

Sen. Crystal Asige, I hope then that clarifies your issue.

Proceed.

**Sen. Crystal Asige:** Thank you very much, Mr. Speaker, Sir for giving us that clarification. Yes, you mentioned the two items that he was required for and with. One is his appointment letter as I have heard correctly and to confirm about the officers that have been spoken about here.

Thank you, very much.

**The Speaker** (Hon. Kingi): Sen. Kavindu Muthama.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir. When the witness was answering the question he was asked by Sen. Wambua, he contradicted himself because when the lawyer was asking him questions, he said that he is aware of where his officers are all the time and every day. However, on this particular one he said that he was not aware until when at the County Assembly. Can he clarify that?

**The Speaker** (Hon. Kingi): Proceed witness?

**Mr. David Haggai Oyagi:** Thank you, Mr. Speaker, Sir. It is true, I am aware, all the time, of where my enforcement officers are. However, in this particular case, is unusual, whereby enforcement officers are mobilized, deployed and go to effect an arrest, without any report to my office.

That is why, when I learned of this, I took the action of instructing my deputy to explain this lapse of not reporting to my office.

The report that my deputy gave was that the sub-county administrator and the sub-county commander who were in charge of this operation failed to report. Reason? Well known to them, and I have advised that action be taken against them.

**The Speaker** (Hon. Kingi): Sen. Kathuri, you may proceed

**Sen. Kathuri:** Thank you, Mr. Speaker, Sir. Mine are just two simple questions. I want the witness to go on record.

Mr. Witness, under whose command are the enforcement officers in the Kisii County Government? Second, does the Deputy Governor have any mandate on the deployment of these enforcement officers?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, the county enforcement officers of the County Government of Kisii are under the command of the Director of Enforcement. Whether the Deputy Governor has the right to command enforcement officers, it is no.

**The Speaker** (Hon. Kingi): Sen. Kathuri: What is the Specific name of the Director?

Proceed Mr. Witness.

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, the Director of Enforcement is the witness standing before the Senate. I am acting in that capacity, and my name is David Haggai Oyagi.

**The Speaker** (Hon. Kingi): Senator Wamatinga.

**Sen. Wamatinga:** Thank you very much, Mr. Speaker, Sir, for the opportunity. Could the witness kindly tell us what he was doing before he became the Acting Director of Enforcement?

Secondly, is there a routine duty roster? Thirdly, when there is a crisis, how do they allocate the duties, and who sits in that meeting?

**The Speaker** (Hon. Kingi): proceed, Mr. witness.

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, before I resumed the Office of the Director of Enforcement as the Acting Director, I was the Deputy Director, but in charge of the Municipality.

About the deployment and how we react, normally, in these operations, if there is an incident happening at the sub-county level, the person who is in charge of those officers is the sub-county enforcement commander, who reports to the Director's Office directly through the Deputy Director of Enforcement in charge of sub-counties.

Once the office is aware, we take charge of that activity and monitor closely so that we can report accordingly.

**The Speaker** (Hon. Kingi): Sen. Maanzo, you may proceed

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. Did you direct or sanction this activity, whereby there was an arrest conducted by 20 officers?

**Mr. David Haggai Oyagi:** Mr. Speaker, Sir, this incident happened on 29<sup>th</sup> December 2023. I did not sanction. I was not aware of it. As I have said in this House, I learned it at the County Assembly. It came to my knowledge that one of the reasons the Hon. Deputy Governor was being engaged in deployment of enforcement officers to arrest his brother.

**The Speaker** (Hon. Kingi): Sen. Boni.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. My clarification arises from the assertion by the Counsel for the Deputy Governor that the witness serves at the pleasure of the Governor of Kisii County.

Section 35 of the County Governments Act gives the Governor the responsibility to form and appoint, with the approval of the County Assembly, the County Executive Committee.

The same Act in Section 59, gives the power of appointment of the rest of the staff to the County Public Service Board, which appointed the witness.

In view of this provision, is the counsel of the defendant going to be magnanimous enough to come and rescind that statement so that it is not in the record that this witness serves at the pleasure of the Governor of Kisii County and that he is appearing this morning purely to canvass to be confirmed in his acting capacity?

**The Speaker** (Hon. Kingi): Counsel for the Deputy Governor, please proceed

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Speaker, Sir, the question and the fact that the witness acts in an acting capacity was the reason for the

contention that he acted not at the direction, but at the pleasure of the Governor, who will ultimately, following directions from the County Public Service Board, be responsible ultimately to his final substantive appointment.

**The Speaker** (Hon. Kingi): Very well. We will allow the witness to retire and now proceed with the defence of the Deputy Governor. Counsel for Deputy Governor, it is now your time.

PRESENTATION OF THE CASE OF THE  
KISII DEPUTY GOVERNOR

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Speaker, Sir. Our first witness is Mr. Joseph Misati. Do I proceed or hold on?

**The Speaker** (Hon. Kingi): Counsel for the Deputy Governor, you have four hours to put your defense. Depending on how many witnesses you intend to call, you need them to work within those four hours. We are going to adjourn at exactly 1.00 p.m. to reconvene at 2:30 p.m. So, kindly keep in mind that time.

Please, proceed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Speaker, Sir, before my time starts running---

**The Speaker** (Hon. Kingi): It is already running.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Speaker, Sir, could I request two accommodations? You recall yesterday when we dealt with the first witness, we had a situation where the time tended to go out of hand because there was no limitation, both in terms of evidence-in-chief and cross-examination.

Subsequently, we had a situation where you required us to declare how much time we needed in evidence-in-chief and cross-examination. I would request that we adopt the same approach, so that my colleagues for the County Assembly do not squander my time in the course of cross-examination.

**The Speaker** (Hon. Kingi): Counsel, we have just had this witness who has just retired. If we can be able to adopt the time indication as we have observed with the witness it would be a good guiding principle. The examination took 20 minutes, cross examination took 15 minutes and re-examination 10 minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This witness is fairly substantive; I intend to take 30 minutes but I will manage my time---

**The Speaker** (Hon. Kingi): Counsel let us then agree this way, that: Your examination, evidence-in-chief you will do 30 minutes, the cross examination will take 15 minutes and re-examination 10 minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Speaker, Sir, if you allow me because you have given directions as to cross examination, yesterday when we were dealing with the crucial witness, my learned senior Mr. Katwa, took approximately one hour and 20 minutes with the key witness.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

We may not be much interested with the witness he has subpoenaed just now, but when it comes to the real ..... (*word expunged at the order of the Speaker*), we would request the Senate to relax the rules so that we are able to effectively bring out the fictitious story.

**The Speaker** (Hon. Kingi): Let us cross the bridge when we get there.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Secondly, perhaps our senior needs to put on record his appearance so that we do not have strangers.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Speaker, Sir, my name is Katwa Kigen. The witness I am calling is Mr. Misati assisted by my office assistant, Mr. Sagini. I thought you would require my colleague to withdraw the use of the word “culprit”.

**The Speaker** (Hon. Kingi): That is unparliamentary. Therefore, I order it to be expunged from the record.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Speaker, Sir. He has whispered an apology to me and I accept it.

**The Speaker** (Hon. Kingi): The counsel for the County Assembly was alleging the presence of a stranger in the representation.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Speaker, Sir, may I explain?

**The Speaker** (Hon. Kingi): Counsel for the County Assembly are you now comfortable?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): To the best of our remembrance Mr. Katwa Kigen did indicate his appearance yesterday. Therefore, we expect and anticipate that the same shall not be adjusted to suit his circumstances.

**The Speaker** (Hon. Kingi): Counsel proceed.

*(The Witness for the Deputy Governor (Mr. Joseph Misati)  
was ushered into the Chamber)*

*(Mr. Joseph Misati took the oath)*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): We proceed directly. You have already given your full names. What do you do for a living?

**Mr. Joseph Misati**: I am a retired civil servant. I run some small businesses and have some dairy cows for a living.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your son said that you also run an M-Pesa business.

**Mr. Joseph Misati**: Yes that is why I have said I have some small businesses, including M-pesa.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I have just asked so that the Senate has the benefit of understanding you. How old are you if you do not mind?

**Mr. Joseph Misati**: Mr. Speaker, Sir, I am 68 years old.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You mentioned you are a retired civil servant. What were you doing before your retirement in the civil service?

**Mr. Joseph Misati:** In the civil service, I was a livestock officer in the veterinary section.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Lastly, do you have any religious affiliation and do you hold any office in church?

**Mr. Joseph Misati:** Mr. Speaker, Sir, I am a Catholic and even when I was in form one, I tried to go to Rakworu Seminary where I intended to be a priest, but I fell out on the way.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are a Catholic as we speak now?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Dennis who was a witness yesterday is your son. Is it true?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like you to be shown the Deputy Governor's defense page 59-62. Do you have it? Could you confirm that is the statement that you made in respect to this case?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you know Dr. Monda?

**Mr. Joseph Misati:** Very well.

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

**Mr. Joseph Misati:** His Excellency the Deputy Governor of Kisii County, Dr. Robert Onsare Monda and I have known each other for more than 32 years.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have been friends for over 32 years. Apart from being friends, have you stated in your affidavit that you worked together at various points in your civil service tenure?

**Mr. Joseph Misati:** Yes Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like to move on because of time. Before we go into details, you know what Dr. Monda, your friend, has been accused of, that he received a bribe from your son and that he also threatened your son. Are you aware of those allegations?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You also heard what your son said in testimony?

**Mr. Joseph Misati:** Yes Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us start with the first thing that your son admitted. Is it true that he did - throughout the issues that this Senate is going to consider - whenever your son needed anything he would tell you and then you would tell the Deputy Governor?

**Mr. Joseph Misati:** No, please.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did the Deputy Governor have a direct conversation with Dennis?

**Mr. Joseph Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): There is no point at which the two spoke directly to each other. Is it not?

**Mr. Joseph Misati:** I am the one who did direct communication to the Deputy Governor.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Secondly, he also said that the two of you having been friends were exchanging favors in terms of money, stocks and goodwill between the families over the 32 years. Is that correct?

**Mr. Joseph Misati:** Correct, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He also said that he relocated from Nairobi to Kisii, to your homestead at a certain point in 2023. Is that correct?

**Mr. Joseph Misati:** If I may explain, I say no. I am the one who relocated my son to move from Nairobi to his homeland in Kisii.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes that is what I was asking you. Basically, it is true that he moved from Nairobi to Kisii sometime in the year 2023?

**Mr. Joseph Misati:** Yes in 2023 and he came alone without his wife.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is also true as he says that you assisted him to relocate?

**Mr. Joseph Misati:** Yes, I assisted him to relocate.

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

**Mr. Joseph Misati:** He had been staying in Nairobi for more than 13 years and there was little communication between my son and I. I am aging and decided to see how I can bring all my children together. I made an effort to look for him. Somewhere between April and May, I called him back home.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Misati, because of time, let me manage what you are saying. Whose idea was it for him to relocate?

**Mr. Joseph Misati:** Pardon.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was it your idea?

**Mr. Joseph Misati:** It was my idea.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you facilitate his relocation?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us move on then. He says that your testimony both at the Assembly and today, which is captured in your statement, is meant to cause him to lose his money. What do you have to say about that?

**Mr. Joseph Misati:** About what?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You want him to lose--- That what you are doing is to frustrate him in getting back his money. What do you have to say about that?

**Mr. Joseph Misati:** I have not reached there. I do not know which money.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. You want us to deal with that. I will change my approach then we come back. Let us talk about the real issue that we are here about. Is it true that a certain sum of money was paid out to Dr. Monda on the 28<sup>th</sup> May, 2023?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is true. Can you tell this Senate how the money was remitted?

**Mr. Joseph Misati:** Mr. Speaker, Sir, on 28<sup>th</sup> May, 2023, as usual and as friends, I made an appointment to see His Excellency the Deputy Governor at his home. I went with my three sons to his home. As we were seated, I had some social discussions with the Deputy Governor about 20 meters away from where I left my sons.

That is the time the Deputy Governor told me that he had given me money in October/November, 2022, after the elections, Kshs500,000. He asked me if I was in a position to refund his money. In that connection, I told him that I could try to refund the money. From my joint account with my wife, I transferred money from my account to His Excellency the Deputy Governor. It was Kshs70,000 three times and Kshs41, 000. The total figure transferred was Kshs251,000.

In our discussions, he told me that he needed some money in cash. I told him that I did not have money in cash but that I will instruct my wife to send money to my son Dennis. My wife did that by sending Kshs250,000 for withdrawal in the nearest market. We tried to get the money but it was late and there was no shop with that float. Therefore, I instructed my son to transfer the money to His Excellency the Deputy Governor Dr. Monda.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. I want us to look at your statement and take the Hon. Senators through the payments. I would like you to go to page 60, paragraph 11, of your statement. I want to correlate that with pages 65 and 66. In paragraph 11 you have said that 'I, therefore, refunded by paying Kshs251,000 directly from my Co-operative Bank'. Can you see that in paragraph 11?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You paid Kshs70,000 three times and Kshs41,000. I would like us to go to page 65. Are you there?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On page 65 can you confirm that the remittances of Kshs70,000 are reflected three times?

**Mr. Joseph Misati:** Yes. Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I want you to turn over to page 66. Is it true that Kshs41,000 is shown?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.



**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Can you confirm that this money that was pulled out of the joint account of yourself and your wife directly to the M-pesa account of Dr. Monda?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The names of the accounts are Joseph D. Misati and Anna N. Misati. Is it?

**Mr. Joseph Misati:** Correct, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us move on to paragraph 12 where you said, 'I thereafter asked my wife to remit the balance of Kshs249,000. I instructed her to remit the amount to my son Dennis. Can you see that?

**Mr. Joseph Misati:** Correct, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like to take you to pages 75 to 88. I want us to go specifically to page 87. Are you on page 87? Hon. Senators, his wife's M-pesa statement is on pages 75 to 88 on the Deputy Governor's bundle. I want us to particularly go to page 88. Are you there?

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Can you confirm that between the hours 1944 and 2001, your wife remitted the sum of Kshs50,000, Kshs50,000 and Kshs150,000 to Dennis Misati as it appears on the face of that Mpesa

**Mr. Joseph Misati:** Yes, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That constitutes to a total of how much?

**Mr. Joseph Misati:** Kshs250,000.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What was the purpose of this remittance of money?

**Mr. Joseph Misati:** The purpose of this remittance to my son, Dennis---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No. We have seen that you pulled out Kshs250,000 from your Co-operative Bank account and another Kshs250,000 from your wife through Dennis.

**Mr. Joseph Misati:** That is correct

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You sent it to Dr. Monda.

**Mr. Joseph Misati:** I instructed my son to send---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That is okay. You sent a total of Kshs500,000 to Dr. Monda?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What were you giving the Kshs500,000 to Dr. Monda for?

**Mr. Joseph Misati:** Mr. Speaker, Sir, this was a refund. The money that he gave in October/November, 2022.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This was a refund?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Number two, whose money was this?

**Mr. Joseph Misati:** The money was ours.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What does 'ours' mean? Who and who?

**Mr. Joseph Misati:** My wife and myself.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It was you and your wife?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was Dennis part of the ownership of that money? The Kshs500,000?

**Mr. Joseph Misati:** No, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Dennis said that he had given you this money and the two of you were holding this money on his behalf and that he gave you in cash. Is that true?

**Mr. Joseph Misati:** Mr. Speaker, Sir, this is not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is not true that he had given you any money.

**Mr. Joseph Misati:** It is not true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This money was yours and your wife's?

**Mr. Joseph Misati:** Correct, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your position is that it was a refund. Was it a bribe?

**Mr. Joseph Misati:** No, Mr. Speaker, Sir.

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

**Mr. Joseph Misati:** It was a refund.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us digress a little before we come back to the Kshs300,000. First of all, you said you went with how many sons?

**Mr. Joseph Misati:** Three

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was it three or four sons?

**Mr. Joseph Misati:** Okay, I am not counting the driver.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How many sons did you go with?

**Mr. Joseph Misati:** Four sons.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You were five people in the Deputy Governor's House?

**Mr. Joseph Misati:** Correct, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Who initiated the idea of going to visit the governor?

**Mr. Joseph Misati:** Mr. Speaker, Sir, it is me.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** It is you who said--- How did you initiate it?

**Mr. Joseph Misati:** This is not the first time, if I need to---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Because of time, just answer my question directly. How was the idea of going to visit the Governor---

**Mr. Joseph Misati:** It was through a call.

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

**Mr. Joseph Misati:** By me.

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

**Mr. Joseph Misati:** To His Excellency the Deputy Governor.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** It is you who requested to go and see him?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** When your son says in his statement and affidavit that it is the Deputy Governor who summoned you, is that correct?

**Mr. Joseph Misati:** No, that is not correct.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Let us move on. Were you, the Deputy Governor and your four sons, seated together when this money changed hands?

**Mr. Joseph Misati:** No, we were not seated together. I am repeating that, after we went we entered his house, me and His Excellency the Deputy Governor, Dr. Robert Monda, moved aside about 20 meters to have our own social discussions.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, you went aside the two of you?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** The boys remained 20 meters away?

**Mr. Joseph Misati:** That is it.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did they participate in your conversation?

**Mr. Joseph Misati:** No, Mr. Speaker, Sir.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, when Dennis says they sat far away from you and that they did not participate in your conversation, that is true?

**Mr. Joseph Misati:** That is true.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** At Paragraph 14, there is another Kshs300,000 that was given to the Deputy Governor.

Dennis says there was another Kshs300,000 that was given in cash. What do you have to say in respect to that Kshs300,000?

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

*[The Deputy Speaker (Sen. Kathuri) in the Chair]*

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, that is untrue. If you look at my balance in the Cooperative Bank, I had more money, if I were to give the alleged Kshs800,000.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I just want you to answer directly. Dennis says you and him walked into the Deputy Governor's Office at the stadium and handed over Kshs300,000 in cash. That is what Dennis says, you have seen that. Is it true?

**Mr. Joseph Misati:** It is not true.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did you ever give the Deputy Governor any Kshs300,000 over and above the Kshs500,000? Apart from the Kshs500,000 that we have seen, is there any other Kshs300,000 that you gave him?

**Mr. Joseph Misati:** There is nowhere I have given him the Kshs300,000, as Dennis says.

**Mr. Joseph Misati:** I would like to move on to paragraph 16 to 17. It is said that this issue has been reported to the Ethics and Anti-Corruption Commission (EACC). You are aware of the contention that it has been reported to EACC. Is it?

**Mr. Joseph Misati:** No, Mr. Deputy Speaker, Sir.

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

**Mr. Joseph Misati:** I am not aware.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** However, you are aware that Dennis says he has reported to EACC?

**Mr. Joseph Misati:** Yes, I have heard.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You have heard from Dennis?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** The bank account from which the money was drawn is your Cooperative Bank account and your wife's M-pesa account. Is it?

**Mr. Joseph Misati:** That is it.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Has the EACC summoned you to record a statement on that issue?

**Mr. Joseph Misati:** No, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** They have not up to today?

**Mr. Joseph Misati:** Yes, up to today.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Has your wife been summoned on this issue?

**Mr. Joseph Misati:** No, please.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. It is said also that Dennis wrote a demand letter for the payment. You saw that claim by Dennis, is it? A demand letter to ---

**Mr. Joseph Misati:** I have not seen that letter.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just a minute. You are aware that Dennis says he wrote a demand letter to the Deputy Governor saying that he be given back his Kshs800,000. You saw that claim by Dennis, is it?

**Mr. Joseph Misati:** I saw that claim.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You saw that?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is it true that you have ever seen a demand letter from Dennis?

**Mr. Joseph Misati:** Pardon.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you seen any letter demanding---?

**Mr. Joseph Misati:** No, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is also said by Dennis that threats were made at him.

**Mr. Joseph Misati:** Pardon.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Dennis says that the Deputy Governor threatened him. You have seen that?

**Mr. Joseph Misati:** I have not seen that, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No. I am saying, you are aware that Dennis says that you threatened him?

**Mr. Joseph Misati:** Me? I threatened him or who?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No. Dennis says that the Deputy Governor threatened him.

**Mr. Joseph Misati:** No, please.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No. I am saying, are you aware of that claim by Dennis?

**Mr. Joseph Misati:** I am aware.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are aware?

**Mr. Joseph Misati:** Yes, please.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you aware of any threat emanating from the Deputy Governor to Dennis?

**Mr. Joseph Misati:** No, please.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. He says that threat was communicated to you. That the Deputy Governor told you to go and tell Dennis to keep away because he is trying to climb a mountain he cannot climb. That is what he says and those are the words he used.

Were you sent by Deputy Governor at any time to communicate any threat to Dennis?

**Mr. Joseph Misati:** No, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, when Dennis says that the Deputy Governor sent you, your position is that you were never sent with any such threat?

**Mr. Joseph Misati:** I have never.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is also said that Dennis sold a salon. Are you aware of any salon that Dennis had or sold?

**Mr. Joseph Misati:** No, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Because of time, I will just be brief on this other issue of other assistance. You heard Dennis say that you have been assisting each other for long and you have just already admitted that. Is it?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that at Paragraph six of your affidavit, you said how you have been consoling each other when you are bereaved together with the Deputy Governor? I am referring to the paragraph for the benefit of hon. Senators.

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That specifically, Dr. Monda, was there when you lost your mother and you were there for him when he lost his daughter. You lost your mother in the year 2001 and he lost his daughter in 2018, and the two of you were together.

**Mr. Joseph Misati:** That is correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You also borrowed each other agrovet stock as stated in Paragraph 5. Is it?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Page 67 of your bundle, at Paragraph 24, you said that in the month of January 2024, over time, you have borrowed a total sum of Kshs600,000 from Dr. Monda for various purposes?

**Mr. Joseph Misati:** Yes, about Kshs600,000 for my personal use.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have captured that at Pages 68, 71 and 70, the various amounts?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Page 117A, there is another amount of Kshs50,000. Could you go to Page 117? The one we were just talking about at Pages 68, 71 and 70 was in the month of January, 2024. Is it?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Page 117A, you received another Kshs50,000. Whom did you receive that Kshs50,000 from?

**Mr. Joseph Misati:** Pardon.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is it true that you received a sum of Kshs50,000 in the year 2014 from Joyce Monda?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Who is Joyce Monda?

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**Mr. Joseph Misati:** Joyce Monda---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Actually, let us say, Joyce Onsare.

**Mr. Joseph Misati:** Joyce Onsare is the wife of the Deputy Governor of Kisii.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What was the basis of this money?

**Mr. Joseph Misati:** This is a usual transaction where we have been making by borrowing, receiving and refunding.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Lastly, in terms of the favours you give each other, I would like you to look at pages 108 to 117. Pages 108 to 117 is the bank statement of one Leah Onsare. Can you see that?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Who is Leah Onsare?

**Mr. Joseph Misati:** Leah Onsare--

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Leah Nyanjera Onsare, who is she?

**Mr. Joseph Misati:** Leah Nyanjera Onsare is the daughter of His Excellency the Deputy Governor of Kisii

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** At Page 111, there is a sum of Kshs200,000 from Joseph Misati and Anna. That is your joint account. There is Joseph Misati Anna. You can see that?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Could you tell the Senate what was happening there?

**Mr. Joseph Misati:** The Deputy Governor instructed me to send this money to his daughter.

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

**Mr. Joseph Misati:** As usual, we have been assisting each other. Thereafter, she was to refund.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Who needed the money?

**Mr. Joseph Misati:** According to this, I was instructed by the Deputy Governor to send money to his daughter.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Who needed the money? Was it the Deputy Governor or what is the position?

**Mr. Joseph Misati:** This money was needed by his daughter.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, the daughter needed money. Why was the Deputy Governor not sending the money to his daughter?

**Mr. Joseph Misati:** That one I cannot explain.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You cannot explain?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Misati, just look at me. Was the Deputy Governor giving you instructions or requesting you?

**Mr. Joseph Misati:** Do you know English? He just requested me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, he was not instructing you?

**Mr. Joseph Misati:** Not instructing me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I was told I have five minutes. Lastly, your son said you were lying *ama unasema uongo ukija hapa*. What do you have to say about that, that you are lying?

**Mr. Joseph Misati:** That is not true. I love all my sons. I have six sons in total and all of them, except one, are graduates. Others have done Masters degrees.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): All your children are graduates and others have postgraduate degrees?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And you love all of them?

**Mr. Joseph Misati:** I love them equally. That is why when I want to go to some places, they accompany me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): They take you with them because *mnapendana*.

**Mr. Joseph Misati:** That is it.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Why did you relocate Dennis from Nairobi?

**Mr. Joseph Misati:** If I may repeat that, when somebody is---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am out of time.

**Mr. Joseph Misati:** I wanted him to be nearer me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was it out of a desire to punish him or out of affection that you needed to take care of his welfare?

**Mr. Joseph Misati:** I wanted him to be near me and get some blessings before---

-

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

**Mr. Joseph Misati:** I am not going to say that.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You want to withdraw that?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How do you feel about appearing here with your son before the Senate to banter words with him?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, I am very sad because this is my son and it is me who paid his school fees and for his daughter, who is schooling at St. Mary's Nyabururu Girls' Boarding Primary School.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you take care of the school fees for his daughter?

**Mr. Joseph Misati:** Yes.



**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is there any relationship between paying of school fees for his daughter and Kshs600,000 you borrowed from Dr. Monda in January, 2024?

**Mr. Joseph Misati:** The Kshs600,000 was given to me by His Excellency the Deputy Governor in January, on various dates. I used some of the money to pay school fees for my granddaughters, including Dennis's daughter. After paying school fees, my son disappeared from my home.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My time is over. I want to hand you over for cross-examination, but before I do that, could you confirm, notwithstanding these proceedings, whether you still love your son?

**Mr. Joseph Misati:** That is my son. I love him and want him to come back with his wife.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): They said his wife had a miscarriage. Are you aware of that?

**Mr. Joseph Misati:** I may not know things like those because--- I can say no. She told me that she was sick, then I took her to the hospital using my money.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you relocated him from Nairobi, paid school fees for his daughter and took care of his wife?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And you are prepared to continue doing that?

**Mr. Joseph Misati:** Always.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you happy to have your sons, including Dennis?

**Mr. Joseph Misati:** That is my son and I will always be happy because--- It is only that yesterday when I met him, he denounced me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am handing you over. It is lucky that you did not become a priest because you would not have had Dennis and the others.

**Mr. Joseph Misati:** Pardon?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am told that my time is up. You will be asked a couple of questions by my colleague. They might not be as polite as I am, but just be strong.

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, let us now have the Counsel representing the County Assembly.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Deputy Speaker. Sir. It is always a pleasure to listen to my Senior, Mr. Kigen.

**The Deputy Speaker** (Sen. Kathuri): Counsel, you have only 15 minutes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Deputy Speaker, Sir, Mr. Mutuma will take the witness.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Speaker, Sir, I want to assure my learned friend that I will be kind to Mr. Misati. I respect him and I will accord him that respect.

Mr. Misati, good morning?

**Mr. Joseph Misati:** Good morning to you.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I will continue from where my learned friend has left. You confirm that you are aware that the wife to Dennis got sick at some moment and you intervened by taking her to hospital?

**Mr. Joseph Misati:** I said yes.

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

**Mr. Joseph Misati:** I cannot recall the date.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Was it this year or last year?

**Mr. Joseph Misati:** It was somewhere in June.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That was last year.

**Mr. Joseph Misati:** It was in 2023.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): And that is the time when the announcement was made on the filling of the recruitment at the GWASCO Limited, is it not?

**Mr. Joseph Misati:** No, please.

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

**Mr. Joseph Misati:** It was after.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. You have also said that you have been long time friends with the Deputy Governor for 32 years, and that is very clear from your transactions. Right?

**Mr. Joseph Misati:** Correct, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have been colleagues. He was your boss and you worked under him in the Veterinary Department, correct?

**Mr. Joseph Misati:** That is true, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): And you continued and extended that friendship beyond retirement?

**Mr. Joseph Misati:** Even up to now.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You would describe that friendship to be very tight and close, is it not?

**Mr. Joseph Misati:** That one is relative.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How would you describe it? He is your friend. That friendship is close and tight, is it not?

**Mr. Joseph Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Very tight? You would not then want to witness a close friend going down through an impeachment process, would you?

**Mr. Joseph Misati:** That is relative too.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Would you want to see your close friend of 32 years go down through an impeachment process? Would you like to see that?

**Mr. Joseph Misati:** He is a friend, of course, and I would never wish for anything which is against him.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Therefore, you will do whatever it is within your powers to defend and protect him when he is faced with challenges, like he has stood up for you previously?

**Mr. Joseph Misati:** But not through instructions.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): But he is your friend and that is something you would willingly do.

**Mr. Joseph Misati:** It is a willing behaviour.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. While I am still at that, you have confirmed in your affidavit appearing at Page 59 of the Deputy Governor's response that you have been asking favours from each other, including seeking job opportunities for your children. Is that correct?

**Mr. Joseph Misati:** Like any other person.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): In this case, we are talking about you and not any other person.

**Mr. Joseph Misati:** That is correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, you have been seeking those favours?

**Mr. Joseph Misati:** Not always.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Specifically, in this case, you have deponed an affidavit that you did approach the Deputy Governor and asked him to assist in employment of your son, Dennis Mokaya. That is your evidence, correct?

**Mr. Joseph Misati:** That is true.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, you are not disputing that you approached him and he promised to assist?

**Mr. Joseph Misati:** I cannot dispute, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Which position were you asking him to assist in the recruitment?

**Mr. Joseph Misati:** Somewhere in April, 2023, there was an advertisement at GWASCO, which I saw through the newspapers. Since I wanted my son back home, I informed my son to go through the website and look for the application.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, it was you who approached your son and notified him of a possible vacancy at GWASCO.

**Mr. Joseph Misati:** It is me who informed my son.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Subsequently, you asked the Deputy Governor before shortlisting to assist in that recruitment.

**Mr. Joseph Misati:** No, please. I went to the Deputy Governor's place after the interview was done.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): After the interview was done?

**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): At whatever time. The Deputy Governor of Kisii does not sit in the interviewing panel of GWASCO, does he?

It is a 'yes' or 'no' answer. Does he or does he not sit in the recruitment panel of GWASCO?

**Mr. Joseph Misati:** He does not.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How was the Deputy Governor supposed to assist in the recruitment of your son if he does not sit in that panel?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, in any case, when you are having some social discussion, there are some things you pass through your friend.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I am asking you a very good question. How was the Deputy Governor supposed to assist in recruitment for an office he is not in charge of recruitment? It is a very simple question.

**Mr. Joseph Misati:** What I can repeat is that when you have something and you have some social discussions with your friend, you just mention as a by the way.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You were inviting the Deputy Governor to use his power and influence to secure that job as the Deputy Governor of Kisii. Is it not?

**Mr. Joseph Misati:** I never influenced that.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That is not what I am asking. The Governor was supposed to use his position as the Deputy to assist in the recruitment. Is it not?

**Mr. Joseph Misati:** Yes, or no.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): It cannot be both.

**The Deputy Speaker** (Sen. Kathuri): Witness, just give the correct position. What is your position on the questions that you are being asked? These are very straight questions that you are being asked, anyway.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): He was supposed to use his position to assist with the recruitment of your son as your friend. Is it not?

**Mr. Joseph Misati:** He was not to use his position, but as a friend, not the position of the Deputy Governor.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): But he was supposed to ensure that happens.

**Mr. Joseph Misati:** I cannot say that because he never got the job.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): But suppose he got the job? I am talking about your request. In your understanding, what was he supposed to do to make sure that, that job was secured?

**Mr. Joseph Misati:** I cannot tell what he was to do.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): But he was supposed to pull some strings and ensure that happens?

**Mr. Joseph Misati:** I cannot tell the House the way he was to use.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): But somehow, he was supposed to use some means to have that request?

**Mr. Joseph Misati:** If he was to use his way, strength or position, I would have got that position.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Misati, if the Deputy Governor was to intervene in that process of recruitment, would that process be competitive, fair and just or it would have been as a result of influence from his position as the Deputy Governor?

**Mr. Joseph Misati:** What we are talking about is what happened.

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

**Mr. Joseph Misati:** What we are talking about right now is what happened. If the position was competitive and my son was not taken, therefore, he never qualified.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): But the Deputy Governor was meant to influence the outcome based on your request because you did not want any other person to get that job, but your son. Is it not?

**Mr. Joseph Misati:** Influence is very relative. I can say that ---

**The Deputy Speaker** (Sen. Kathuri): What is your point of order, Sen. Sifuna.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, you need to remind the witness that he is under oath and his responsibility to answer truthfully and not be evasive or argumentative in his answers. This is because I am getting very frustrated listening to the answers. I am unable to discern the answers that are coming from the witness.

**The Deputy Speaker** (Sen. Kathuri): Sen. Sifuna, from where I sit, you know, I cannot tell whether it is truthful or not, but he should. What he needs to do is to answer specific questions as they are.

**Sen. Sifuna:** That is what I am saying.

**The Deputy Speaker** (Sen. Kathuri): The questions are just 'yes' or 'no' answers. From where I sit, I cannot tell whether it is truthful or not. The judges in this room will be able to determine that.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, fortunately for me, I am seated here as a judge. Please, let him just answer the question.

**The Deputy Speaker** (Sen. Kathuri): I have heard you, Sen. Sifuna.

*(An hon. Member spoke off record)*

I do not want to open that route. I have ruled that the witness should answer questions directly, as he is asked. Let us not go to the route of more point of orders kindly, hon. Senators.

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

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Mr. Witness, when you approached your friend of 32 years, the Deputy Governor of Kisii on this request, what was his response?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, as I have mentioned earlier, when I went to his home, it is only that we did have some social discussions, including looking for employment opportunities.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Mr. Witness, my question is specific. When you made the request for Dennis Mokaya to be employed at GWASCO, as the commercial manager, what was the response of the Deputy Governor? It is a very clear question. Please, avoid stories.

**Mr. Joseph Misati:** When I mentioned, he just told me that there are some factors which follow for any employment. If he has done the interview and he qualifies according to what the Board of Management of GWASCO, he will be called.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Did he promise to assist or not?

**Mr. Joseph Misati:** He never promised that he was to assist me.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Let us proceed. You have alleged that on 28<sup>th</sup> May, you and Dennis, together with your other sons, visited the Deputy Governor's home. Correct?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, yes.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** It was not usual for you and your sons to visit the Deputy Governor. It does not happen occasionally. Is it not?

**Mr. Joseph Misati:** It is usual.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** When was the last time you and your sons visited the Deputy Governor, specifically, with Dennis?

**Mr. Joseph Misati:** Okay, I told you that Dennis has been away for the last 13 years. Now, as he came back, I wanted to show him the love I have towards him. In any function I was going, I was to go with him with the others.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** That was not a function, Mr. Joseph; it was a visit.

**Mr. Joseph Misati:** A function, a visit and anything like that.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What was the function about?

**Mr. Joseph Misati:** The function can be a funeral.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** I am specifically asking about this for the 28<sup>th</sup>. Was it a funeral or a wedding?

**Mr. Joseph Misati:** It was a feast.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What kind of a feast was it?

**Mr. Joseph Misati:** A social feast.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** How many people were in attendance apart from you and your sons?

**Mr. Joseph Misati:** No, there were other visitors who were in the Deputy Governor's house.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** You have not mentioned that in your affidavit.

**Mr. Joseph Misati:** Those ones were of their own company. I cannot mention because I never knew their names.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** You also stated that on that very day, you had a discussion with the Deputy Governor and the boys - referring to your sons - sat at a distance and you engaged the Deputy Governor secretly. Correct?

**Mr. Joseph Misati:** That is true.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** You also stated that you sent some money from your Cooperative Bank account to the Deputy Governor's mobile number. How much was that amount? The one that was sent directly from your account to the Deputy Governor's phone.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, it was Kshs251,000.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** At that time, your account still had money, a balance of Kshs1.3 million. Correct?

**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** What was the essence of then requesting your wife to send money directly to Dennis for Dennis to transmit to the Deputy Governor, when you would have done that directly from your Cooperative Bank account, if it was a debt?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, it was for my financial management.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** You also stated in your affidavit---

I want to refer you to Paragraph 12 and kindly read that paragraph. Hon. Senators, it is on page 60 of the Deputy Governor's response. This is what you stated under oath. Mr. Joseph, kindly read Paragraph 12 and save our time.

**Mr. Joseph Misati:** "I then asked my wife to remit the balance of Kshs249,000. I instructed her to remit the amount to my son, Dennis Misati, for him to pay as we sat together. My wife then sent Kshs250,000 to my son, Dennis Misati, on the same date by remitting remittances of Kshs50,000, Kshs50,000 again and Kshs150,000, making a total of Kshs250,000."

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Proceed to 13.

**Mr. Joseph Misati:** "I then instructed my son to remit the Kshs249,000 to His Excellency the Deputy Governor, Robert Monda, which he did. The balance of Kshs1,000, partly to cover transaction charges."

**The Counsel for the County Assembly (Mr. Elias Mutuma):** There is no mention whatsoever in your affidavit on Oath, Mr. Joseph, that, that money was first sent to your son to go and withdraw and bring it in cash. That is not stated in this affidavit. Is it? You instructed your son specifically to send the money to the Deputy Governor. That is your statement on oath. Is it not so?

**Mr. Joseph Misati:** Mr. Speaker, Sir---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That is your statement on oath, 'yes' or 'no'?

**Mr. Joseph Misati:** No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That is what you have just read, Mr. Joseph. There is a reason I made you to read. This is what you stated specifically under Oath, when you had the time to prepare this Statement. Is it not what you stated on oath?

**Mr. Joseph Misati:** Yes, this is what I stated, but---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. You have answered the question. This is what you stated.

**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have now come to the Senate and you are changing that statement.

**Mr. Joseph Misati:** I am not changing. It is after the discussion when we were with His Excellency the Deputy Governor that he needed some cash---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Misati, that discussion had taken place by the time you were putting this affidavit into writing. Is that not so?

**Mr. Joseph Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, that fact was available to you when you were writing this affidavit.

Mr. Deputy Speaker, Sir, with much humility, kindly may I have an additional five minutes?

**The Deputy Speaker** (Sen. Kathuri): This Communication was well put before we started with this witness. You are also aware that still we are challenged by time.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Five more minutes, I beg.

**The Deputy Speaker** (Sen. Kathuri): The former Chair was here and did a very good Communication, and I do not want to change the rules of the game midway. I will give you one minute as you wind up.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Speaker, Sir, kindly give me five minutes because this has been a difficult witness in answering question.

**The Deputy Speaker** (Sen. Kathuri): Two minutes only, Counsel.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Mr. Deputy Speaker, Sir. Now, you had that information by the time you were reducing it into an affidavit. Is that not so? You had the information that the Deputy Governor had requested for cash and not through an M-pesa. That information was with you when you were writing this affidavit.

**Mr. Joseph Misati:** It was, but---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. That is the answer I wanted. However, you did not reduce it in writing. You are telling us for the



first time today, at the Senate. Is that not so? Is today the first time you are making that allegation at the Senate? That is a very simple question.

**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You also stated that you were in the company of your other sons, and one of them is your driver. Correct?

**Mr. Joseph Misati:** That is it, Mr. Speaker. Sir.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): What is the name of your son, who is also your driver?

**Mr. Joseph Misati:** Jared Misati.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Is that the person who runs your errands and is very close to you because he is always with you, we presume as your driver? Is it not so?

**Mr. Joseph Misati:** That is not true.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): He is always with you as your driver.

**Mr. Joseph Misati:** Mr. Speaker, Sir, I think he is lying.

*(Laughter)*

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I am asking a question. How would I be lying? I am not giving evidence. Are you telling us that your son, who is your driver, is not your close friend, and you are not with him most of the times as you make your movements?

**Mr. Joseph Misati:** Mr. Speaker, Sir---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): It is a 'yes' or 'no.'

**Mr. Joseph Misati:** I have some bit of explanation to give before I say 'yes' or 'no.'

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Just give a 'yes' or 'no,' then I will decide whether to allow you to explain or not.

**Mr. Joseph Misati:** Can you repeat your question?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I am asking, most of the times, this son you have, who is your driver, is with you and runs errands with you. True or false?

**Mr. Joseph Misati:** That is my son and he is the only one who is at home. He is only the driver.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, he is close to you when you are running your errands. Correct?

**Mr. Joseph Misati:** No, that is not true.

*(Loud consultations)*

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Witness, is there a place you go without him as your driver? You do not drive yourself. He drives you.

**Mr. Joseph Misati:** Since I do not have any other person to drive me, my son, who is at home and who is yet to be employed, and who is older than Dennis, always takes me.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That is what you should have said from the beginning.

**The Deputy Speaker** (Sen. Kathuri): Counsel, your two minutes are over.

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

**The Deputy Speaker** (Sen. Kathuri): Counsel, now---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I was building up on that issue.

**The Deputy Speaker** (Sen. Kathuri): You are abusing my magnanimity. Kindly, let us get the other Counsel. There will be a lot of prejudice on my part if I do not conclude on that issue.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Speaker, Sir, you will note that this has been a very difficult---

**The Deputy Speaker** (Sen. Kathuri): It is up to you to utilize the two minutes that I give you. If you keep on asking for more time and I have directed you what to do, why do you not shoot your questions that you want to achieve?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Speaker, Sir, the problem---

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, if the witness has those weaknesses, you are the people to determine this case. I do not want you to direct the witness on what to say or what not to say. Please, avoid exchanging with the Chair.

Senate Minority Leader, just give me time to manage this process. This is not an issue of which side or not. Please, I beg you. Let me have the other Counsel.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Speaker, Sir, if you may allow me as the Lead Counsel, the defence still has six more witnesses. The rest of the witnesses have been allocated 15 minutes each. We will sacrifice one witness. We will not cross-examine him. Then, we will allocate that 15 minutes to this witness.

We will not cross-examine one of the Members of the County Assembly (MCAs), so that we are able to do justice to this case through this witness. That is the compromise we shall make.

*(Loud consultations)*

**The Deputy Speaker** (Sen. Kathuri): For record purposes, can you give me the name of the Member of County Assembly that you want to cede the 15 minutes?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Speaker, Sir, we will not cross-examine Thomas Obare Nyabaro and Amos Obegi Oderi. So, we will have extra 30 minutes for this witness. We shall allocate 15 minutes to this one and 15 minutes to the Deputy Governor. It is horse-trading.

**The Deputy Speaker** (Sen. Kathuri): I will give you 15 minutes for the first one. For Thomas, I will give 15 minutes. Strictly 15 minutes, Counsel, no addition, no subtraction.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): We are most obliged, it is good horse-trading. We are most humbled.

**The Deputy Speaker** (Sen. Kathuri): You cannot use more than 15 minutes. Proceed.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Mr. Deputy Speaker, Sir. You notice that this is a key witness that needs to be thoroughly cross-examined.

Mr. Misati, you have confirmed that your son, who is your driver, is mostly with you when you are running your errands. Correct?

**Mr. Joseph Misati**: Running my what?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Errands. When you are going about your business, he is the one who is close to you. He is the one who is at home. He is your driver. Correct?

**Mr. Joseph Misati**: Yes, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Why was it then important for you to send money to Dennis, who is not that close to you, than use your driver who had a car, to go and withdraw that money and bring it back?

**Mr. Joseph Misati**: Mr. Deputy Speaker, Sir, because His Excellency the Deputy Governor, Dr. Robert Monda, in our discussion said that he needed some cash instead of going to M-pesa. That is the time I decided that the money was to be remitted to a younger person, who will be able to run quickly to the---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Witness, could your son run faster than your car that is being driven by your other son? Is that what you are telling the Senators, that, indeed, Dennis was capable of running faster than a driver with a car?

**Mr. Joseph Misati**: Mr. Deputy Speaker, Sir, as we have said that, I have used Jared Misati to be my driver, and that is indicating he is the most trusted to me in terms of management. I wanted also to show my son, Dennis Misati, that I love him through sending that money, for him to also act on that.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That has been noted, Mr. Deputy Speaker, Sir. You have also claimed at Paragraph 24 - hon. Senators, that is appearing at Page 61 - that the amount of money that you sent to Dr. Monda was part of the Kshs600,000 he had lent you. Correct?

You have alleged at Paragraph 24 that previously, you had received Kshs600,000 from Dr. Monda.

**Mr. Joseph Misati**: That was in January.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You are claiming that part of that money went to pay school fees for Dennis's child?

**Mr. Joseph Misati:** Among other expenses.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): How much money did you spend as school fees to the child of Dennis Mokaya? It is a very straightforward question,

**Mr. Joseph Misati:** Mr. Deputy Speaker, Kshs60,000.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You confirm from your own affidavit that it is you who paid that amount directly? That is what you state. Can you read the last sentence of that paragraph again and save our time?

Proceed from "the amounts were partly---"

**Mr. Joseph Misati:** The amounts were partly used to help my son Dennis, especially, fees for his child that I personally paid.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. You personally paid that amount?

**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Which account did you pay to, what was the mode of payment and do you have evidence of payment of that amount?

**Mr. Joseph Misati:** This payment here looks relative, it is only that the money originated from me and I gave---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Misati, I only have 15 minutes and I want to utilize them very effectively.

I am asking a specific question. To what account did you pay; the school's account, what mode and where is the evidence? It is very straightforward. So, please, do not bring stories, we do not have time for that.

**Mr. Joseph Misati:** The money of the Kshs60,000 plus other monies which---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): No, we are specific on the Kshs60,000 paid personally by you to the school.

**Mr. Joseph Misati:** The Kshs60,000 paid as school fees for my granddaughter, I gave it to one of my sons, including the other money to go and pay.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Misati, you have just read to us Paragraph 24, that you personally paid. Is that not what you read?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): No, No. Kindly save our time, Mr. Misati. Is that not what you read, that you personally paid Kshs60,000?

**Mr. Joseph Misati:** Personally paid is also relative, but not to indicate where I put the money. I gave the money and my son took it to the bank, including others.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Speaker, Sir, I urge the House to take note of the conduct of the witness and allow me to proceed.

What is the name of your granddaughter?

**Mr. Joseph Misati:** Celda Kwamboka Mokaya.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** How old is she?

**Mr. Joseph Misati:** She is, I think, 13 years.

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

**Mr. Joseph Misati:** I took her to St.---

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

**Mr. Joseph Misati:** I cannot tell because when my son disappeared, I do not know where they went. However, previously, it was me who took her to Nyabururu.

**The Counsel for the County Assembly (Mr. Elias Mutuma):** Thank you, Mr. Deputy Speaker, Sir. I yield the rest of the minutes to my learned friend, Mr. Njiru.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Thank you, Mr. Mutuma.

Mr. Witness, have a look at the bundle of documents by the County Assembly. Hon. Senators, I am referring to Page 184.

Witness, I have seven minutes to deliver this. This is the HANSARD of 29<sup>th</sup> August, 2023 from the County Assembly. Look at the last paragraph where the hon. Deputy Governor is answering.

Before I go to that, when the Deputy Governor asked you to refund the Kshs500,000, what did he tell you the money was meant for?

**Mr. Joseph Misati:** Pardon?

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** When he asked you to return the Kshs500,000 he had lent you, what did he tell you the money was for?

**Mr. Joseph Misati:** He told me that he had some functions he was to use that money for.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Which functions in particular?

**Mr. Joseph Misati:** Which included trying to go outside the country.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** So, the money was specifically meant to go out of the country?

**Mr. Joseph Misati:** Among other things.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Are those other things that you are referring to, the issues that you are discussing and more specifically, the forwarding of the Kshs100,000 to one Lucy--- Are you aware or not?

**Mr. Joseph Misati:** I was not aware.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** I want you to look at Page 189 of the same bundle. Did the Deputy Governor travel? Are you aware or not?

**Mr. Joseph Misati:** I am not aware.

**The Counsel for the County Assembly (Mr. Ndegwa Njiru):** Look at Page 189, Volume one of the same bundle by the County Assembly. It is the HANSARD of 29<sup>th</sup> August. Who made the request for you to be assisted for Dennis to secure a job?

**Mr. Joseph Misati:** It is me.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): To whom did you make it? Did you make it to your friend, Dr. Monda or to the Deputy Governor of Kisii County?

**Mr. Joseph Misati:** My friend, Dr. Monda.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where was that job supposed to come from; from his farm, from his shop or from the county government?

I have asked you two issues. Where was the job supposed to come from?

**Mr. Joseph Misati:** From the county government.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Look at the paragraph where we have the hon. Deputy Governor. Can you see that?

**Mr. Joseph Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Would you read out what the Deputy Governor is saying?

**Mr. Joseph Misati:** Hon. Deputy Governor---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Can you see where he is saying, "Mr. Speaker, Sir, just as a good friend--"

**Mr. Joseph Misati:** "As great friends, Mr. Joseph and I, somewhere in 1<sup>st</sup> April, was made to know that there is an advert that has come up in GWASCO and Misati, as a friend, could ask me that his son has also tendered his application."

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): In this respect, which son is the Deputy Governor making reference to?

**Mr. Joseph Misati:** Dennis.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Proceed? Can you see where my Senior, Katwa Kigen, is saying, so he requested if you could assist?

**Mr. Joseph Misati:** Yes, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What does the Deputy Governor say? Does he say that he made the request?

**Mr. Joseph Misati:** Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Proceed to read.

"And did you talk to Lucy about the request about your friend?"

That is Mr. Katwa Kigen asking the Deputy Governor.

That is my learned friend, Mr. Katwa Kigen, asking the Deputy Governor, whether the Deputy Governor spoke to Lucy. Can you see that?

**Mr. Joseph Misati:** Yes, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What was his answer?

**Mr. Joseph Misati:** Deputy Governor: "Like any other leader, this request came to me. Everyone, hon. Members, knows that Lucy is the GWASCO would work--"

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Next page.

**Mr. Joseph Misati:** Like any other staff who under the Governor's Office, where I am also the Deputy Governor---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, he acknowledges that Lucy works under the Governor's Office and that Mr. Monda is also under the same office? That is the acknowledgement, 'yes' or 'no?'

**Mr. Joseph Misati:** As it is.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Proceed to read.

**Mr. Joseph Misati:** To the Governor and--- so indicated to Lucy---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, I indicated to Lucy. Asking her if they had such kind of jobs and she said 'yes.' As a friend, making a request that he gets his son a job, like everyone of us here would do, and she told me, 'let us wait for the process. If he qualifies, we shall not deny him a job.' Is that the discussion?

**Mr. Joseph Misati:** According to this, yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Are you aware that the Deputy Governor, your dear friend, whom you have come to defend this morning, sent Kshs100,000 to Ms. Lucy?

**Mr. Joseph Misati:** I am not aware.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Will it, therefore, surprise you that part of the money you sent to him that day was shared with one Ms. Lucy?

**Mr. Joseph Misati:** I will not be surprised.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you.

Have a look at your affidavit. It is in the Deputy Governor's bundle of document, at Page 60. Witness, are you there?

**Mr. Joseph Misati:** Yes, Mr. Deputy Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Have a look at Paragraph 12. Kindly, read it out.

**Mr. Joseph Misati:** I then asked my wife to remit the balance of Kshs249,000. I instructed her to remit the amount to my son, Dennis Misati, for him to pay---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. That is what I want us to explain. For him to do what?

**Mr. Joseph Misati:** To pay.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What was he paying?

**Mr. Joseph Misati:** The refund.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me, is it to refund or to pay? Do you understand English, Mr. Witness?

**Mr. Joseph Misati:** English is for the lawyers.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. I will now teach you.

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): Order, Senators.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I put it to you that there is a difference between the statement 'to pay' and 'to refund.' Therefore, because you have preserved English for us, the lawyers, I put it to you that the two words have different meanings. Yes?

**Mr. Joseph Misati:** It is very difficult for me to understand.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I, therefore, put it to you that paying is different from refunding.

**Mr. Joseph Misati:** According to you, yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Therefore, I further put it to you that the word 'payment' being used here is the corruption and bribery for your son to succeed with a job. Yes?

**Mr. Joseph Misati:** Payment is not a bribe. It will depend with the context.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): In this context now. Thank you.

**Mr. Joseph Misati:** That is wrong.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Let us have a look at Page 111 of the same bundle of Deputy Governor. It is a statement by Leah Nyachera Onsare, a statement from Co-operative Bank.

**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You are the one who has brought this document. Correct?

**Mr. Joseph Misati:** No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You are not the one who brought this document.

**Mr. Joseph Misati:** I am not the one who brought this statement.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where did it come from?

**Mr. Joseph Misati:** It came from Leah Onsare.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is she a witness in this proceeding?

**Mr. Joseph Misati:** I am not aware.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I put it to you that she is not a witness.

**Mr. Joseph Misati:** You have said so.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Now, Mr. Witness, who sent this money to Leah?

**Mr. Joseph Misati:** It is me and my wife from the joint accounts.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Upon whose request?

**Mr. Joseph Misati:** Upon the Deputy Governor's request.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, the Deputy Governor asked you to send the Kshs200,000?



**Mr. Joseph Misati:** Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you ask him what it was meant for?

**Mr. Joseph Misati:** That was for his personal use.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, if I put it to you that the Deputy Governor, for whom you so love, is a person who has insatiable desire for resources, and that is the reason he is always in a begging mood, what would you say?

**Mr. Joseph Misati:** That is very untrue.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, no further questions.

**The Deputy Speaker** (Sen. Kathuri): Counsel for the Deputy Governor, you have 10 minutes for re-examination.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Sorry, proceed, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, my point of order is to appeal to you. The appeal is arising from the provisions of the Rules of Procedure. I invite you to look at Rule No.22 in our Standing Orders.

I am appealing to you that you vacate your direction, in order to accommodate the time constraints, the Counsel for the County Assembly should lose his opportunity to cross-examine two witnesses.

Rule No. 22 says-

“A witnesses presented shall be led in evidence, cross-examined and, where necessary and only for purposes of clarification of issues that may have arisen in cross-examination, a witness may be re-examined.”

Mr. Deputy Speaker, Sir, with the long years of experience in this Parliament, I know that whatever decision we make here is still open to being challenged in the High Court. If we are going to be found to have breached our own Rules, our very ultimate decision is open to being challenged. We are not going to dine from---

**The Deputy Speaker** (Sen. Kathuri): What is your point of order? Are you suggesting that the witness should not be re-examined?

**Sen. (Dr.) Khalwale:** Yes. It looks like you were not listening to me.

**The Deputy Speaker** (Sen. Kathuri): Rule No.22 is addressing cross-examination. Just in case there are other issues of clarifications, the Witness is summoned.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I know. If you listened to me, you would see where I am heading. The point I am making is that vacate your ruling that two witnesses---

**The Deputy Speaker** (Sen. Kathuri): Sen. (Dr.) Khalwale, I made that ruling. You should sit down.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I will not take that.

**The Deputy Speaker** (Sen. Kathuri): I cannot vacate my ruling. Sorry.

**Sen. (Dr.) Khalwale:** That is why I am rising to draw your attention to provisions of the Rules of Procedure, No.22.

**The Deputy Speaker** (Sen. Kathuri): Rule No.22 does not address the matter you put.

**Sen. (Dr.) Khalwale:** It is.

**The Deputy Speaker** (Sen. Kathuri): Are you also challenged in English Language?

**Sen. (Dr.) Khalwale:** Am I?

**The Deputy Speaker** (Sen. Kathuri): Let me give Sen. Cherargei an opportunity to say something. He is a lawyer, who practices English than you.

*(Loud consultations)*

Sen. (Dr.) Khalwale, resume your seat. I have heard you.

**Sen. Cherargei:** Thank you, Mr. Deputy Speaker, Sir. We are cautioned because-- The Bible says that we should not serve the law, but that the law should serve us. In our Ruling No.30 of the same on the procedures, you have the power to determine on a particular question, but not limited to question of evidence, materiality, relevance, competency or admissibility of evidence and any question consequential or incidental thereto.

Your ruling is Solomonic and should not be vacated. In any case, in the tradition and precedent, the issue raised by my brother, the Senate Majority Whip, has been overtaken by events. That matter has stopped from being discussed. Therefore, I request that we proceed as you had directed.

**The Deputy Speaker** (Sen. Kathuri): Thank you, let us proceed now. Take a minute, Sen. Sifuna.

**Sen. Sifuna:** I wanted to calm the nerves of my senior, Sen. (Dr.) Khalwale, that far from the big words Sen. Cherargei wants to use, he has not shed light on the issue. I want to calm his anxiety by explaining that if a party has chosen to waive their right to cross-examination, there is no problem. So, it is them who have requested to waive that right to cross-examine those two. Not under pressure, so that they can focus their attention on other witnesses they believe would better advance the argument.

Mr. Deputy Speaker, Sir, you are just okay. You are struggling, but you are okay.

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Sifuna, you are out of order. Can you withdraw that last point?

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, it was with a light note, but I withdraw and apologize. You are a man of substance.

*(Applause)*

**The Deputy Speaker** (Sen. Kathuri): Counsel, you have 10 minutes. Let us proceed.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Deputy Speaker. I trust my 10 minutes starts running from now.

**The Deputy Speaker** (Sen. Kathuri): Yes, from now.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Deputy Speaker.

Mr. Joseph Misati---

**Mr. Joseph Misati:** Yes, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): A number of questions were put to you on whether you defend the Deputy Governor on whatever he wants. You were also asked on whether you act on his instruction and that you would do anything.

The question I want to ask you directly is: would you go out of your way to defend the truth or --- What are you defending today? Is it the truth?

**Mr. Joseph Misati:** The truth, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are standing for the truth

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): All you say is based on your truth?

**Mr. Joseph Misati:** Pardon?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What you are standing on is what you believe to have been the true position?

**Mr. Joseph Misati:** My true position in this case---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just confirm that what you have said is based on what you know to be the truth. It has nothing to do with whether or not you want to help the Deputy Governor. True?

**Mr. Joseph Misati:** That is it, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The second issue I want to put to you is, you were asked by my colleagues whether the Deputy Governor promised you that your son would get a job. I want you to just confirm that for emphasis. Did he make any promise to you?

**Mr. Joseph Misati:** No. Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The question was also put to you. Did you know what he wanted to do to assist your son get a job? Did you know?

**Mr. Joseph Misati:** No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did he promise to use his position to get your son the job?

**Mr. Joseph Misati:** No, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I move to another question. You were asked whether you usually make visits to the Deputy Governor with your sons. What is your answer?

**Mr. Joseph Misati:** Correct. That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You normally visit him?

**Mr. Joseph Misati:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Dennis said yesterday that was the first time he had gone to the Deputy Governor's house. That is what he said. Do you have an explanation for that proposition?

**Mr. Joseph Misati:** Yes. Mr. Deputy Speaker, Sir. It is said that my son, Dennis Misati, was his first time to go with me to the Deputy Governor---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We want to object to that line because it never came out during cross-examination. During the cross-examination, the witness must be tailored to answer the questions that have come from the examination. He cannot introduce a new ground that we never dealt with in cross-examination. He is re-examining the witness.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Deputy Speaker, Sir, all I am doing is reacting to the proposition that was put to the witness as to whether he normally goes with his sons to visit the Deputy Governor or otherwise that was the first time and distinguishes the rest of the visits.

So, I am just making the point as to whether or not indeed he has been visiting the Deputy Governor and if Dennis was making the first visit as opposed to the other sons and what the explanation is. That is all I am doing.

I pray that you---

**The Deputy Speaker** (Sen. Kathuri): Just stick to that lane. You have a lot of experience, Katwa Kigen.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Mr. Deputy Speaker, Sir. I do not want you to be very verbose. Could you just answer the question? Why was it that Dennis was going there for the first time that day?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, earlier, I stated that my son has been in Nairobi for more than 13 years.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, the reason you had not gone with him is because he has been away from Kisii in the neighbourhood of the visit. True?

**Mr. Joseph Misati:** correct, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have been asked why you chose Dennis to receive the M-Pesa as opposed to Jared whom you have always worked with. What is your answer to that? Why did you choose Dennis?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, you have got a number of children, you must balance how you can love them.

In that context, you can see that Jared is the person who has been driving me. Dennis has just come and I just want to show him that I love him by sending that money. In other words, not loving because I sent the money. It is just to indicate that I must balance my love towards my sons.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you were showing love and trust to all of them?

**Mr. Joseph Misati:** I trust and love all of them equally.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You will continue to do that?

**Mr. Joseph Misati:** That is it, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You were taken to task on the contents of paragraph 24 of your affidavit. I would like you to look at that. If you remember, your affidavit is at page 59. I would like us to visit paragraph 24. Are you there?

**Mr. Joseph Misati:** Yes, Mr. Deputy Speaker, Sir

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** An issue was taken on the point you made “especially fees for his child and I personally paid.” You have seen that?

**Mr. Joseph Misati:** Yes, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What did you mean by saying that you personally paid?

**Mr. Joseph Misati:** It means from my pocket to any other---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, your point is that the money that was paid was used to pay your grandchild's fees was yours.

**Mr. Joseph Misati:** It was mine. That is what I mean.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** How was the money remitted to the school account?

**Mr. Joseph Misati:** I gave one of my sons to go and remit the money.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, one of your sons went. In the meantime, whose money was that son of yours taking?

**Mr. Joseph Misati:** One of my son that Dennis is saying----

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, you gave your son to go and pay in the school account. True? Whose money was your son carrying?

**Mr. Joseph Misati:** My money.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I would like to move on to page 189 of the County Governments bundle. That is the HANSARD. Particularly, I would like us to look at page 190 of that HANSARD. Could you confirm that it is not you but rather the Deputy Governor talking starting from pages 189 to 190 on the paragraph that was read to you? Is it you or the Deputy Governor talking?

**Mr. Joseph Misati:** It is the Deputy Governor, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Can you answer for the words of the Deputy Governor or it is for the Deputy Governor to answer for that?

**Mr. Joseph Misati:** That is why I was unable to.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I would like us to read the last sentence to the Deputy Governor’s statement running from pages 189-190. Could you read this last paragraph?

**Mr. Joseph Misati:** “And she told me, let us wait for the process and if he qualifies, we shall not deny him the job and the discussion ended there”.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, the Deputy Governor is saying that he talked to the Managing Director of the Gusii Water and Sanitation Company who said that they await the process and if he qualifies, we will not deny him. As it is there

**Mr. Joseph Misati:** Yes, as it is there.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is my last question. I want to take you back to the 28<sup>th</sup> of May when you met. *Wakati mlikuwa mnaongea kwa nyumba.* Did you say, and I am quoting the words you used “that the Deputy Governor told you there are factors that exist to get a job”?

**Mr. Joseph Misati:** That is correct

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He said there are factors.

**Mr. Joseph Misati:** Sorry?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): There are factors. *Kuna vitu zenye zinahitajika ndio upate kazi.*

**Mr. Joseph Misati:** Correct, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is that consistent with what we have just read on page 190 of the HANSARD?

**Mr. Joseph Misati:** Correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That the Director said it depends on whether he qualifies.

**Mr. Joseph Misati:** Those are the factors, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Deputy Speaker, Sir, I would like to leave my re-examination there.

Thank you very much Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Counsel, are you done with the witness?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes. I am done, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): For this particular witness, I want to give a few Senators an opportunity to seek clarification. My dashboard is full. So, I am kindly requesting whether we can agree we do it four Members from each side so that we can make progress.

We start with Sen. Sen. Orwoba.

**Sen. Orwoba:** Thank you, Mr. Deputy Speaker, Sir. My question is to Joseph Misati. You said that you have six sons. Yes?

**Mr. Joseph Misati:** Yes. Mr. Deputy Speaker, Sir

**Sen. Orwoba:** Is your wife the biological mother to all of these six sons?

**The Deputy Speaker** (Sen. Kathuri): Ask through the Speaker so that he can respond to you. You know---

**Sen. Orwoba:** Okay, that is one of my questions. I would like to know if your wife, whom you are referencing, is the biological mother to all of the six sons, including Dennis.

Mr. Deputy Speaker, Sir, my next question goes to the Senior Counsel. Counsel, I do not know whether you are conversant with Article 76 of our Constitution. In reference to page 61 of the Deputy Governor's Volume, from paragraphs 24, 25, and 26, we have been subjected to this relationship of two personal friends who are giving favours to each other in form of soft loans.

My question to Senior Counsel is in reference to Article 76 which highlights that a public officer should not use his office in any manner, particularly financial sense or soft loans, to erode the public confidence in favour of a person on insurance. Would you agree with me that from what you have showcased here, particularly in paragraphs 24, 25, and 26, on page 61, the Deputy Governor went against Article 76 of the Constitution?

Finally, is on the issue of money being transferred. My question is; why did the Deputy Governor not just withdraw the cash and refund directly?

**The Deputy Speaker** (Sen. Kathuri): Sen. Orwoba, your two minutes are over. Those are two questions; one to the Counsel and the other one to the witness.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, as it has been raised, I am the biological father to Dennis Misati.

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, let us not introduce new and irrelevant issues that were not in the presentations. I want you to avoid those biological issues that you have been asked to do because they did not arise and they are seeking clarifications. Just answer relevant questions that you have been asked. Do not bother about the children and whether they are biological or not.

**Mr. Joseph Misati:** Thank you very much, Mr. Deputy Speaker, Sir, for saving me. It is only that talking about issues of who is the mother and who is the father---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Deputy Speaker, Sir, the second question was directed at me in terms of the provisions of Article 76 of the Constitution and the need for the propriety of conduct by---

**An hon. Senator:** On a point of order, Mr. Deputy Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Deputy Speaker, Sir, can I proceed?

**The Deputy Speaker** (Sen. Kathuri): Please proceed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much, Mr. Deputy Speaker, Sir.

Regarding whether the Deputy Governor conducted himself properly in accordance to Article 76 of the Constitution, our answer is that he conducted himself properly.

First of all, we are not making an admission that this money was meant to make an influence because it was a mere refund. It is our position that borrowing between friends is not prohibited by Article 76 of the Constitution of Kenya. It is our position also that if it were to have been the case that it was meant to be a bribe, that is when you can invoke Article 76 of the Constitution. Our position is that it was not a bribe. It was a friendly loan between the two of them. It was a refund that was made on 28<sup>th</sup> May, 2023.

**The Deputy Speaker:** Let us have Sen. Wambua.

**Sen. Wambua:** Mr. Deputy Speaker, Sir, I have three straight questions to the witness.

**The Deputy Speaker** (Sen. Kathuri): You have two minutes.

**Sen. Wambua:** Mr. Witness, what was the role of your sons in your visit to the Deputy Governor's home? They accompanied and stayed away from you. When you went back, they had not heard what you discussed. What was their role in that visit?

Secondly, to the best of your knowledge, is there a personal relationship between your son Dennis and the Deputy Governor? When you allegedly sent him money to send to the Deputy Governor, did you also give him the Deputy Governor's cell phone number?

Thirdly, is it your evidence on record and on oath that your son has cooked up a story to malign a person that he has no personal relationship with?

**The Deputy Speaker** (Sen. Kathuri): Proceed, Mr. Witness.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, for the love of my children, I usually move with them when they are at home especially on weekends when we want to visit friends.

Secondly---

**The Deputy Speaker** (Sen. Kathuri): Did you get the other questions?

**Mr. Joseph Misati:** What was the second question?

**The Deputy Speaker** (Sen. Kathuri): Hon. Senator, let us avoid asking the witness many questions. Perhaps you should be writing them down so that you remember. The assistant there who is standing by the witness should assist and not necessarily the counsel. He should record what is being asked.

Sen. Wambua, proceed.

**Sen. Wambua:** Mr. Deputy Speaker, Sir, I also want you to guide us in these proceedings. Is it right for the counsel to coach the witness when we seek clarification from him?

**The Deputy Speaker** (Sen. Kathuri): I have directed that the counsel's assistant should note what Senators are asking, so that you give the questions to the witness. That is why you are standing beside him to support him.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Deputy Speaker, Sir, for the avoidance of doubt, I was not guiding him. I was just reminding him what the second question was; being, whether there is a relationship between---

**The Deputy Speaker** (Sen. Kathuri): Sen. Wambua, please, ask your second question.

**Sen. Wambua:** Mr. Deputy Speaker, Sir, perhaps, this is the most important. To the best of your knowledge, is there a personal relationship between your son Dennis and the Deputy Governor? When he was given the money to send, was he also given the cell phone number of the Deputy Governor?

**The Deputy Speaker** (Sen. Kathuri): Please, answer that question.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, all my sons, including Dennis, have a relationship with the Deputy Governor.



Secondly, for the money that was sent to my son Dennis Misati to forward to the His Excellency the Deputy Governor, it is me who gave him the Deputy Governor's number.

**The Deputy Speaker** (Sen. Kathuri): That is okay.

*(Sen. Wambua spoke off record)*

He has answered that. Did you have four questions? Which other one?

Hon. Senators, let us just ask two questions in the two minutes because we cannot restrict two minutes for Senators---

**Sen. Wambua:** Mr. Deputy Speaker, Sir, how you deal with your two minutes is your problem. If I can ask 20 questions in two minutes---

**The Deputy Speaker** (Sen. Kathuri): What I mean is that if we give Senators two minutes, then the witness will require 20 minutes.

**Sen. Wambua:** If there is a problem with the witness answering the question, that is my problem.

**The Deputy Speaker** (Sen. Kathuri): Kindly ask your last question.

**Sen. Wambua:** The last question is whether it is your evidence on record and on oath that your son Dennis has actually cooked up a story to malign a person whom he has no personal relationship with in the name and character of the Deputy Governor.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, according to what the Senator has said, I can also summarise what is going on.

My son was lured, intoxicated with some of the people with an aim to use him to fail the Deputy Governor. After I paid school fees, my son stayed at home for three or four days and a vehicle came to collect him. I do not know where they went with his wife and I cannot tell up to now.

**The Deputy Speaker** (Sen. Kathuri): Next is Sen. Chute.

**Sen. Chute:** Thank you, Mr. Deputy Speaker, Sir. I have two quick questions for Mr. Misati. Does he have any documentary evidence that shows that he has borrowed the money from the Deputy Governor-Kshs600,000? Second, is there any contribution from his son –Dennis - in regards to the payment of Kshs600,000 paid to the Deputy Governor?

**The Deputy Speaker** (Sen. Kathuri): Witness, kindly respond.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, it is usual for friends, unless that amount of money is a loan, in most cases. However, I do not have evidence because he gave me the money due to trust.

**The Deputy Speaker** (Sen. Kathuri): The second question.

**Mr. Joseph Misati:** I have not understood the second question.

**The Deputy Speaker** (Sen. Kathuri): Give Sen. Chute the microphone kindly.

**Sen. Chute:** Thank you, Mr. Deputy Speaker, Sir. This question is for the witness. If there are any contributions made from his son, Dennis, in regards to the payment of the Kshs600,000 paid through M-pesa to the Deputy Governor.

**The Deputy Speaker** (Sen. Kathuri): Proceed to answer.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, I never sent the said Kshs600,000 to the Deputy Governor. It was the Deputy Governor who sent that money to me. Therefore, Dennis's contribution is not there.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Sifuna.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, I was really looking forward to an explanation from the witness as to why it was necessary for the money that was sent from Dennis to be sent by him. The money went from the mother, to Dennis then to the Deputy Governor. If indeed, it was a debt it would have been sent directly either by him or the mother to the Deputy Governor. However, he has made a curious comment. That it was for his own financial management. I want him to clarify that for me. It does not make financial sense for money to move through those three stages incurring transfer charges. What do you mean by your own financial management? It was a direct transaction and you should have told your wife to send it to the Deputy Governor. I want to understand that explanation that you gave, Mr. Misati.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, allow me to go back. I had more than Kshs500,000 in my account. I was asked why I did not send money in full? This is why I mentioned that, I had--- my financial management, that if I move from here, the other bag is on the other side.

The money was not sent directly from my wife to the Deputy Governor's M-pesa because she does not have the number of the Deputy Governor. This is why ---

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): Give the witness time to answer the question. Witness, you can continue answering.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, this is why---

**The Deputy Speaker** (Sen. Kathuri): Are you through with your answer? Are you done?

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, this is why I instructed my wife to send the money to my son Dennis so that we could continue with the other processes.

*(Sen. Methu spoke off record)*

**The Deputy Speaker** (Sen. Kathuri): Senator, you are in the queue. Do you have a follow-up question? Proceed.

**Sen. Methu:** Mr. Deputy Speaker, Sir, I need clarification so that we do not lose that trail of thought. The witness says that the wife could not send the money to the Deputy Governor because she did not have the number.

I also recall that he said that Mr. Dennis did not have the number of the Deputy Governor. He had to send the number to Mr. Dennis. It was easy to send the number to Dennis but difficult to send it to the wife.

**The Deputy Speaker** (Sen. Kathuri): Sen. Methu, are you asking me or the witness?

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, every person has his ways of operation. This is the best way I operate.

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): Order, Senators. Order, Senators. Next is Sen. Cheptumo.

**Sen. Cheptumo:** Mr. Deputy Speaker, Sir, I have only one question. The witness went to visit the Deputy Governor with his sons. From the evidence, the sons sat far from where the Deputy Governor and the witness were conversing.

I want the witness to confirm to this House that there was no discussion about the support of the Deputy Governor to secure a job for Dennis.

**The Deputy Speaker** (Sen. Kathuri): Witness, proceed to answer the question from Sen. Cheptumo.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, kindly and humbly come again.

**The Deputy Speaker** (Sen. Kathuri): Sen. Cheptumo, frame your question in a way that he will understand faster.

**Sen. Cheptumo:** Mr. Deputy Speaker, the question I want to ask the witness is that – yesterday, Dennis confirmed that he accompanied him to the Deputy Governor’s house. Today, the witness confirmed that he visited the Deputy Governor with his sons and that the sons were sitting from the Deputy Governor and himself.

Witness, kindly confirm to this House that you did not discuss anything about the support of the Deputy Governor to secure your son, Dennis, employment in the county government. Is that clear now? I believe so.

**Mr. Joseph Misati:** Very clear. In our social discussions, including the refund of the Kshs500,000 and requests like any other person that my son had applied for the job of being a commercial manager, I just conversed with the Deputy Governor about the same issue.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Mwaruma.

**Sen. Mwaruma:** Thank you, Mr. Deputy Speaker, Sir. It is just a question about the visit of Mr. Misati and the sons to the Deputy Governor. Yesterday, I thought that the sons were kept away from the Deputy Governor and Mr. Misati, because the sons were not familiar with the Deputy Governor. However, when Mr. Misati was answering the question by Sen. Wambua, he said that “my sons are familiar to the Deputy Governor”. So, my question would be: Why were the sons kept away from the discussion between Mr. Misati and the Deputy Governor and yet they were familiar with him? What were they cooking?

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Senators, I can see a trend that some of the Senators are trying to jump the queue. We are just doing a follow-up of the question but you are now becoming more technical. However, you can answer that one. Answer that question, witness.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, the Senator has said that yesterday, my son Dennis indicated that he has no familiarity with the Deputy Governor. Today, I have said that we are very familiar with the family of Dr. Monda. Therefore, by indicating that if we were familiar, why was it that I was seated far from my own sons as if there was something cooking?

Mr. Deputy Speaker, Sir, I beg to say, there are some things when you have got some discussions, you cannot include your sons and there was nothing that was cooking.

**The Deputy Speaker (Sen. Kathuri):** Okay. Proceed, Sen. Crystal Asige.

**Sen. Crystal Asige:** Thank you, Mr. Deputy Speaker, Sir. My first question to the witness is, there is a lot of information that differs from the affidavit you gave under oath with the information that you are giving under oath today. So, my first question is, were you lying then or are you lying now?

My second question is, in the evidence you gave about the transaction on 28<sup>th</sup> May, you say that the reason your wife sent the money to your son is so that Dennis can run to an Mpesa point and withdraw because the Deputy Governor requested for cash.

Now, at the beginning of your testimony when you were being introduced, your counsel asked you to tell us what you do. You said that you own an Mpesa business.

My second question is, why would you say that your son did not find any Mpesa branches open to withdraw the cash and that is why he sent it through the phone when you own your own M-pesa business which you could have withdrawn from there through your son.

Mr. Deputy Speaker, Sir, I want the witness to agree with me that the Deputy Governor has higher financial capacity than he has for several years within their friendship. He has earned more than Mr. Joseph Misati.

My question is: Are you giving testimony that may differ from your affidavit and what you are saying today because you might be weary of the well running dry in terms of the financial favours that you receive from the Deputy Governor, through your long-term friendship. Thank you.

**The Deputy Speaker (Sen. Kathuri):** Thank you. Mr. Witness, proceed.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, to the first question, I never got the loan. The Senator has asked if I lied or if I am lying today. That is a no.

Mr. Deputy Speaker and Senators, on the second question, she asked why I did not send the money directly to the Deputy Governor if I am operating the M-pesa. One, my M-pesa balance by that time had no such balance. Two, the Deputy Governor wanted money in cash. That is why I opted for the money to be sent to my son, Dennis. He was to go to the nearest shop to withdraw. Unfortunately, we found that the shops had closed.

**The Deputy Speaker (Sen. Kathuri):** Have you answered the three questions?

**Mr. Joseph Misati:** The third one went off my--- Can I have the third one, please?

**Sen. Crystal Asige:** Mr. Deputy Speaker, Sir, in the third question, I asked the witness to agree that the Deputy Governor has more financial capacity in terms of earnings and has had so, for a long time in their friendship. Therefore, is he concerned, that without his testimony today in trying to help the Deputy Governor remain in office,

that the well will run dry in terms of financial favours that the Deputy Governor has afforded to the witness in the past.

**Mr. Joseph Misati:** Thank you, Mr. Deputy Speaker, Sir. It will depend. It does not mean that when you are a Deputy Governor, you have a lot of money. Most people operate on loans. If there is any person I know that is struggling financially, then it is my friend, the Deputy Governor.

**The Deputy Speaker** (Sen. Kathuri): Next is Sen. Tabitha Mutinda.

**Sen. Tabitha Mutinda:** Asante, Bw. Spika.

Bw. Misati, Waswahili walisema, “ajuaye uchungu wa mwana ni mzazi.” Na waliimba wakasema, “mtoto sio nguo, utaomba mtu.” Niulize leo ndugu yangu, ni nini hicho kilichofanya mwanao, Dennis, ambaye ameishi miaka kumi na tatu Nairobi, auze biashara yake na akuletee zile fedha?

Swali la pili, katika ile biashara yako ya M-pesa, katika zile *transactions* inaonekana ya kwamba ulituma zile elfu mia mbili hamsini na moja kutumia simu yako ya rununu. Ni nini ilifanya zile pesa zilizobakia, zile elfu mia mbili arobaini na tisa, lazima zipeanwe katika kitita cha pesa taslimu?

Asante, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kathuri): Yes, Mr. Witness, proceed.

**Mr. Joseph Misati:** Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Nafikiri umeelewa Kiswahili vizuri. Haya, jibu.

**Mr. Joseph Misati:** I have gotten the message. In the question of---*Amesema ya kwamba*, if I cannot translate that one, the person who knows the bitterness of the child *ni mzazi*.

I have indicated very clearly and stated earlier that my son has been away for more than 13 years. Even during that time, although there was rare communication, I used to send him some money for his upkeep, even if I do not have the documents to support that.

By saying that he sold his own salon as indicated; he had no salon.

**The Deputy Speaker** (Sen. Kathuri): Witness, kindly answer the questions that you have been asked by the hon. Senator within a minute.

Just answer the question directly without circumventing a lot of explanations. It is just a direct question.

**Mr. Joseph Misati:** Thank you, Mr. Deputy Speaker, Sir. If it is alleged that he sold his goods or his salon, I do not know where he took the money.

Question number two---

**The Deputy Speaker** (Sen. Kathuri): Mr. Witness, that question was never asked by the Senator. Senator, can you repeat your question for record purposes.

**Sen. Tabitha Mutinda:** Thank you, Mr. Deputy Speaker, Sir. Let me just use the English language.

Mr. Misati, what is the reason why your son sold his salon businesses in Nairobi? I think he has answered and said, the son did not have any salon business. Let me take that answer.

Mr. Misati, maybe you can answer the second question.

**The Deputy Speaker** (Sen. Kathuri): Rephrase the question, please.

**Sen. Tabitha Mutinda:** My second question was; the first transaction that you sent to the Deputy Governor was Kshs251,000 in M-pesa. How come, you had to give the Deputy Governor Kshs249,000 that your son had to run around to look for money to give cash yet, the first batch was given on M-pesa? What was wrong in still sending the Kshs249,000 via M-pesa?

You have said that politicians do not have money. Is it the case that your good friend was looking for money from you?

**Mr. Joseph Misati:** Thank you, Mr. Deputy Speaker, Sir. In our discussions with the Deputy Governor, I told him that I have some money in my account. I remitted that money Kshs70,000 three times plus Kshs41,000 which came up to Kshs251,000. In our discussion, the Deputy Governor told me that he needs some cash. That is why I instructed my wife to send it to Dennis so that we can look at a way of how we can encash that money from any nearest M-pesa.

**The Deputy Speaker** (Sen. Kathuri): Sen. Faki, you may have the Floor.

**Sen. Faki:** Thank you, Mr. Speaker, Sir. I refer the witness to page 65 of the DG's bundle. I can see you transferred Kshs70,000, three times on the same 28<sup>th</sup>. You had a handsome balance in the account, why did you not transfer the whole Kshs500,000 that evening through your account?

Secondly, you said this debt which you were paying to Dr. Monda you borrowed the money in 2022. Is that not so? When was the last time you visited Dr. Monda before you went to his house on 28<sup>th</sup> May, 2023?

**The Deputy Speaker** (Sen. Kathuri): Answer the two questions.

**Mr. Joseph Misati:** In reference to the first question on why I never sent the whole amount yet I had a balance of more than Kshs1 million, I indicated clearly that the maximum money that I wanted to withdraw from my account was Kshs251,000 for financial management reasons. The other money, which was in my wife's M-pesa, is the one I wanted to send to my son to encash.

I did not get the second question. The third one was when I last went to the Deputy Governor's home. That is difficult to answer because I do not write the dates. However, I frequently visit him when invited or book appointment when he is at home.

**The Deputy Speaker** (Sen. Kathuri): Yes, Sen. Mundigi Alexander.

**Sen. Munyi Mundigi:** Bw. Naibu wa Spika, swali langu ni kwa Bw. Misati. Unaonekana mtu aliyekomaa. Huenda ukawa mzee wa kijiji au mzee wa kanisa. Tunajua kuna mambo ya wazee, familia na marafiki.

Kuna mambo ya mtoto wako na bibi yake. Vile vile, kuna mambo yako na bibi yako, na kuna mambo ya *Deputy Governor* na kazi yake. Wewe kama mzee unafaa kuunganisha watu ili mambo kama haya yasifike hapa. Mambo kama haya kule nyumbani kwa sababu ya urafiki na mambo mengine ya familia. Wewe kama mzee, ulichukua hatua gani kuzuia mambo kufika kwa *County Government* na hatimaye hapa?

Bibilia husema, watu wawili hawawezi kutembea pamoja kama hawajakubaliana. Sasa inaonekana kazi ya *Deputy Gavana* na mambo ya familia yako hatarani.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

**Mr. Joseph Misati:** May I answer that question?

**The Deputy Speaker** (Sen. Kathuri): Let him, first, answer the question.

**Mr. Joseph Misati:** That is a good question. I indicated clearly that after paying school fees for my granddaughter, things started changing from 6<sup>th</sup> to 13<sup>th</sup> January. I think I paid the school fees on the Monday following 6<sup>th</sup>.

After paying school fees, my son brought some shopping list amounting to Kshs13,000. I told him I could not raise Kshs13,000 then. I asked him to find out whether some of his brothers could assist him. I told him I will look for Kshs500 to buy essential items. Since books were needed, we could borrow some for my granddaughter, which I did on Monday.

After doing that, I told the person who brought me the books to take to my son's house. After some time, he came back and told me he was sorry because his cousin had bought all the books. I wondered what had happened and where he got the money. After he took his daughter to school, he stayed for two days only. From 6<sup>th</sup> up to the time he disappeared, he seemed like someone who had a lot of money.

Mr. Deputy Speaker, Sir, you know when you have money, you change your style of walking and eating. I was surprised with where this young man got money from, only to find that the boy or my son---

**The Deputy Speaker** (Sen. Kathuri): Witness, you have answered the question.

**Mr. Joseph Misati:** He disappeared and that is why I was unable - If he had come to me to tell what he was conspiring, we would have been on the same page.

**The Deputy Speaker** (Sen. Kathuri): Sen. Kinyua, what is your point of order?

**Sen. Kinyua:** Asante, Bw. Naibu wa Spika, kwa kunipa fursa hii. Hili ni Bunge la kumbukumbu na tumekuwa na kikao kama hiki, tukijadili Hoja kama hii. Nakumbuka ya kwamba, maswali tunayopaswa kuuliza, ni ya ufafanuzi mahali ambapo hatujaelewa vizuri. Lakini, maswali yanayoulizwa, ni kama kwamba, sisi tayari tumekata kesi na mwelekeo ambao tunataka kuchukua.

Bw. Naibu wa Spika, Spika mwenzako alisema vivyo hivyo ya kwamba, maswali tunayouliza yanapaswa yaelekezwe kwa ufafanuzi na si kuonekana kwamba tayari tumechukua msimamo na mwelekeo.

**The Deputy Speaker** (Sen. Kathuri): Seneta Kinyua, mimi nikiwa hapa kwa hii Kiti, sijasikia maswali kama hayo, unayosema yameulizwa.

*(Laughter)*

Kwa hivyo, yale maswali hawa Majaji wanauliza, ni yale yatawasaidia kukata kauli, mwisho wa hii sehemu.

Now, let us have Sen. Osotsi.

*(Sen. Munyi Mundigi stood up in his place)*

Sen. Munyi Mundigi, you are out of order. I will throw you out of this House. You are out of order. Please resume your seat.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Osotsi.

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, I would like to ask the witness about his affidavit that is on page 59 of the defence. It is stated that, “we asked each other of possible favours and this includes; favours like helping each other look out for jobs, educational opportunities and other social welfare openings, for especially, our children.” This reference of looking for jobs refers to which jobs? Can you tell the House which jobs you were looking for, for your children?

**The Deputy Speaker** (Sen. Kathuri): Yes, proceed.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, like any other person who has taken his children to school and because of scarcity of employment, it is not a crime - although I am not a lawyer - to discuss social life like looking for jobs.

Secondly, you have seen educational opportunities. I can recall when my children were in high school and others in universities, the Deputy Governor and his wife attended one of my fundraising for the education of my children. I have answered that one.

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey Samson.

**Sen. Cherarkey:** Thank you, Mr. Deputy Speaker, Sir. I have three questions.

Mr. Misati, are you only friends with the Deputy Governor or you are also business partners?

Number two, you have said that politicians are normally financially strapped or struggle, which I agree to some extent but some are well-oiled. Have you ever in any point like yours truly, funded any of the campaigns in the Deputy Governor Dr. Monda’s career or been part of his campaign?

Three, in this M-pesa sending, were you sending money to Dennis Misati out of affection, love or were you assigning him responsibility? I want to know because you said you sent to him to show him love but, again, you were giving him responsibility to send the same money to the Deputy Governor.

Finally, are you aware of allegations of a bribe of Kshs800,000? Is it Kshs800,000 or Kshs600,000? Can you differentiate the same or are you only aware of Kshs600,000?

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Mr. Witness, proceed.

**Mr. Joseph Misati:** Mr. Deputy Speaker, Sir, the first question was if we are friends or have business partnership. Before I retired, I was serving agrovet shops. During that time, the Deputy Governor was also having a shop in Kisii. Therefore, he was supplying me with goods to sell, then I would refund. Indeed, we are friends but not partners.

I do not know how much money is used for campaigns. If you can look at the much we have been transacting; it was very little. I have never funded the Deputy Governor’s campaign.

**The Deputy Speaker** (Sen. Kathuri): Last question?

**Mr. Joseph Misati:** Hon. Senator, it is because of the language. I can just combine it to say that I sent the money for the love of my son and responsibility.

The third one on whether I am aware of any bribe, I have got the figure of Kshs600,000 and Kshs800,000. I only learned of these issues of bribery after the



impeachment, that my son and I went to bribe the Deputy Governor but the opposite is the case.

I learned of the Kshs800,000 after impeachment. For the Kshs600,000 the Senator has indicated, the figure is there, but it is the money the Deputy Governor gave me and I am yet to refund.

**The Deputy Speaker** (Sen. Kathuri): That is okay.

Hon. Senators and both teams from the Deputy Governor and the County Assembly of Kisii, we are breaking for lunch at this hour, 1.00 p.m. We will resume at exactly 2:30 p.m.

### ADJOURNMENT

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, it is now 1.00 p.m. time to adjourn the Senate. The Senate, therefore, stands adjourned until today, Thursday 14<sup>th</sup> of March, 2024, at 2:30 p.m.

The Senate rose at 1.00 p.m.