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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

COMMITTEE ON APPOINTMENTS

SECOND REPORT ON THE APPROVAL HEARINGS OF NOMINEES
FOR APPOINTMENT AS CABINET SECRETARIES

VOLUME IIIA
MEMORANDA FROM THE PUBLIC AND RESPONSE BY NOMINEES

AUGUST 2024

M. S. DDA 17

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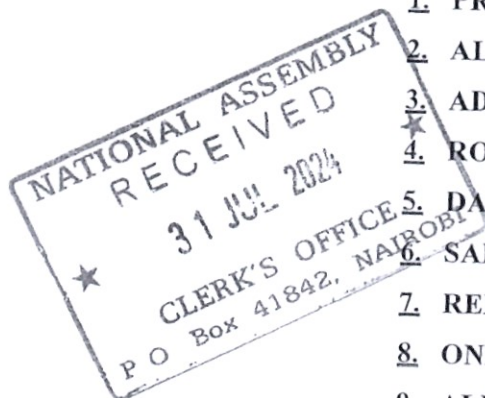
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

- IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010..
- IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.
- IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].
- IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.
- IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND



TO:

THE NATIONAL ASSEMBLY OF KENYA

NAIROBI.

I, Muhammadin Saïd Alau, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi, hereby solemnly makes oath and states THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:

- 1) PROF. KITHURE KINDIKI
- 2) ALICE WAHOMÉ
- 3) ADEN BARRE DUALE
- 4) ROSEJINDA SOIPAN TUIYA
- 5) DAVIS CHIRCHIR
- 6) SALIM MVURYA MGALA
- 7) REBECCA KIANO
- 8) ONESIMUS KIPCHUMBA MURKOMEN
- 9) ALFRED NGANGA MUTUA
- 10) JUSTIN BEDAN NJOKA MUTURI
- 11) JOHN MBADI NG'ONGO
- 12) JAMES OPIYO WANDAYI
- 13) HASSAN ALI JOHO, AND
- 14) WYCLIFFE AMBETSA OPARANYA.

2. My grounds for contesting the nomination of the first ten nominees named above are that:

3. In a statement dated 11.07.2024 issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.
5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.
6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.
7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.
8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.
9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.
10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.
12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.
13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.
14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.
15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.
16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the