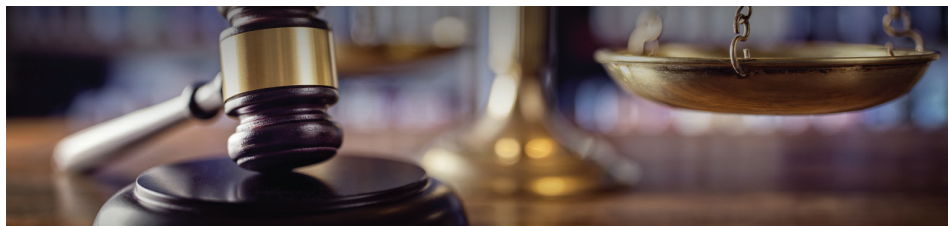


25 April 2019



Court of Appeal cements bail jurisdiction issue

- Upholds that Corruption and Economic Crime Court has no jurisdiction to determine bail applications
- Quashes proceedings of lower Court

In an appeal lodged by Mwita Joseph Ikoh and two others v the Republic, Criminal Appeal no 60 of 2018, the Court of Appeal has reiterated its earlier position in the case of DPP v Aneth John Makame that the Corruption and Economic Crime Division of the High Court has no jurisdiction to determine bail applications in economic crime cases if trial is yet to commence before that Court.

In a recent judgment, their Lordships Mussa, JA, Mwangesi, JA and Ndika, JA ruled that a petition for bail in economic cases can only lie to the Corruption and Economic Crime Division of the High Court after the accused's plea has been taken by that Court and not before. The ruling states that prior to the commencement of trial before this Court, a petition for bail in economic cases should lie to the High Court District Registry or subordinate committal Court depending on the value of the property involved in the charge and the stage at which the proceedings in respect of the charge have reached.

The appellants in this case were charged with an economic offence and petitioned for bail before they were committed to the Corruption and Economic Crime Division of the High Court for trial. The Court of Appeal said that that procedure was wrong and it quashed the proceedings and the ruling of the Corruption and Economic Crime Division of the High Court.

The judgment said in passing that since the value of the precursor chemicals charged was not stated in the charge and the appellants were yet to be committed for trial, it was wrong to move the Corruption and Economic Crime Division of the High Court for bail. The judgment also pointed out that section 36(1) of the Economic and Organised Crime Control Act (EOCCA) is not an enabling provision for grant of bail which can stand alone.

Based on this position by the Court of Appeal, accused persons wishing to apply for bail in economic offences before commencement of trial must petition for bail at the High Court District Registry or subordinate committal Court depending on the value of the property involved.

To read the judgment, [click here](#).

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