In re: THE CONTEMPT PROCEEDINGS OF COUNSELLOR FLAAWGAA R. MACFARLAND

CONTEMPT PROCEEDINGS.

Heard: August 25, 1992. Decided: September 4, 1992.

1. It is an elementary principle in our jurisdiction that where a judge or Justice has previously participated directly or indirectly in a case which comes before him, he should recuse himself at the call of the case for hearing. In the case of the Supreme Court, if majority of the Justices have to recuse themselves, *Ad Hoc* Justices will be appointed and qualified to proxy for them.

2. Any act or conduct is contempt of the Supreme Court which obstructs or is calculated to embarrass or hinder the Court in the administration of justice or constitutes an offense against the authority and dignity of the Court.

3. Where the execution of a mandate of the Supreme Court to a lower court is impeded by the institution of proceedings to prevent the execution of the mandate, the parties and counsel instituting the proceedings act in contempt.

Counsellor Flaawgaa MacFarland wrote to three of the Justices of the Supreme Court requesting them to recuse themselves from the hearing of a bill of information which he had filed before the full bench.

The Supreme Court found no basis for his request and concluded that his action was a deliberate attempt to have the bill of information held in abeyance. As a consequence, he was charged with and adjudged guilty of contempt of court and fined $500.00.

Joseph P. H Findley appeared as *amicus curiae.* Respondent appeared for himself.

MR. JUSTICE BULL delivered the opinion of the Court.

These contempt proceedings against the respondent, Counsellor Flaawgaa R. MacFarland, emanated from his uncalled for letters written to Justices James G. Bull, Victor Hne, and Boimah K. Morris requesting them to recuse themselves from sitting on the information which he had filed before the full bench. In seeing to justify his contemptuous act, he proceeded to write these Justices and attributed various reasons

why he felt they should recuse themselves. However, from the contents of his letters, his conduct, and the arguments in the proceedings before us, it would appear that his intention is to have the bill of information held in abeyance, never to be heard.

It is elementary in our jurisdiction that where a judge or Justice has previously participated directly or indirectly in a case which comes before him, he should recuse himself at the call of the case for hearing. In the case of the Supreme Court, the Justices concerned will definitely recuse themselves when the case is called for hearing and, in case the majority of the members have to recuse themselves, that there will be Ad Hoc Justices appointed and qualified to proxy for them.

The meeting that the Supreme Court's citation of June 24, 1992 referred to was meant for Counsellor Theophilus G. Gould, but the citation was inadvertently sent to Counsellor Flaawgaa R. MacFarland and he was so informed when he appeared at the meeting. He was given a choice to either leave or stay. The meeting was purposely to advise Counsellor Theophilus C. Gould not to obstruct the execution of the Supreme Court's mandate. There was no extrajudicial meeting held with Counsellor MacFarland as he has falsely stated in his letter to Justice James G. Bull.

Relative to Justice Hne being in the so-called "extra judicial meeting", we confirm our earlier holding that there was no extra judicial meeting held. Regarding his affiliation as a senior partner with the Law Offices of Carlor, Gordon, Hne and Teewia, we hold Justice Hne in high esteem and we are confident that he will always recuse himself when a case is brought before the bench if he has participated in such a case prior to his elevation on the bench. We are certain that he will not need to be reminded. However, since his elevation to the bench, there have been many cases filed in that Law Office in which he has not participated nor have knowledge about. Hence, he cannot be expected to recuse himself when such cases come before the bench for determination.

As for Justice Morris, we know that he will always recuse himself at the call of a case in which he has participated, either directly or indirectly. Hence, he does not need to be reminded.

We have carefully read the three letters and have come to the conclusion that the real purpose of Counsellor MacFarland commencing the proceedings in the manner exhibited herein is to delay the execution of the Supreme Court's mandate of 1989, which is very highly contemptuous.

This Court has held that:

"Any act or conduct is contempt of the Supreme Court which obstructs or is calculated to embarrass or hinder the Court in the administration of justice, or constitutes an offense against the authority and dignity of the Court. Where the execution of a mandate of the Supreme Court to a lower court is impeded by the institution of proceedings to prevent the execution of the mandate, the parties and counsel instituting the proceedings are in contempt." *Raymond International (Liberia) v. Dennis,* 25 LLR 131 (1976).

The action of Counsellor Flaawgaa R. MacFarland is highly contemptuous because he attempted to write these letters not out of any genuine concern but, and we can gather for his act, to impede the execution of the Supreme Court's mandate. Indeed, the intent of Counsellor MacFarland's letter to Justice Bull was very malicious, as clearly revealed by count 3 of said letter in which, according to him, he and his clients had gone to check the home of Justice Bull to see who went to visit him. This malicious intent, perpetrated through his acts committed in the preparation of his so-called applicatory affidavit and allegedly signed by his clients and himself, is another manifestation of his criminal intent.

Counsellor Flaawgaa R. MacFarland is very notorious for his flagrant disregard for constituted authority, demonstrated through his reference to the opinion of the Honourable Supreme Court of Liberia as a "fatal legal blunder and gross conspicuous reversible errors". Moreover, the Nagbe Bench adjudged him guilty of contempt and suspended him from the practice of law for some time. We would have meted out to him the desired penalty so as to serve as a warning to others in the future, but we are precluded from exacting the relevant penalty due to the fact that our country has been plunged into a bloody civil war. We are therefore seriously reprimanding him to desist from such act or behavior. Any further repetition of this act by him will leave this Court with no other alternative but to mete out the most serious and severe penalty.

In view of the facts and the law cited hereinabove, we hold that Counsellor Flaawgaa R. MacFarland is guilty of criminal contempt and is hereby fined the sum of Five Hundred ($500.00) dollars as a reprimand, to be paid forthwith into the Government revenue. He is ordered to exhibit the official flag receipt to the Marshal of this Court for registration. A failure by Counselor MacFarland to pay the amount stipulated herein within 72 hours, the Clerk of this Court is hereby ordered to prepare a commitment and have same placed in the hands of the Marshal of this Court to have

him committed into the common jail until he has paid the $500.00 fine. And it is hereby so ordered.

Respondent adjudged in criminal contempt.