In re: FLAAWGAA RICHARD McFarland

CONTEMPT PROCEEDINGS

Heard October 29, 1986. Decided January 23, 1987.

1.To constitute contempt, there must be improper conduct in the presence of the court, or so near thereto as to interrupt or interfere with its proceedings; or some act must be done not necessarily in the presence of the court, which tends to adversely affect the administration of justice.

2. A constructive contempt is an act done not in the presence of the court, but at a distance, which tends to belittle, degrade, obstruct, interrupt, prevent or embarrass the administration of justice.

3. Any act or conduct is contempt which obstructs or is calculated to lessen the court's authority or its dignity, or which brings the administration of the law into disrespect or disregard, or which affronts the majesty of the court, or which challenges the authority of the court, or any conduct which in law constitutes an offense against the authority and dignity of a court or judicial officer in the performance of his judicial functions.

4. The definition of contempt of court applies in a special manner to lawyers and the offense is deemed much more grave than when committed by laymen.

5. A lawyer who attempts to create conflict between the Executive and Judicial Branches of government by seeking a review by the Chief executive of a decision by the Supreme Court in civil cases is subject to disbarment.

6. An unfounded charge of corruption against the Justices of the Supreme Court, contained in a letter written by a lawyer to the President of Liberia tends to impair the dignity of the Court and undermine confidence in the judiciary, and accordingly is ground for disbarment.

7. Counsellors-at-law who, after losing a case, writes to the President of Liberia, falsely charging that the case was decided without copies of the records being transmitted from the trial court and that they had been denied their day in court may be held in contempt.

8. A person who acts to obtain the intervention of an official of the Executive or Legislative branch of government in a case pending in the Judicial Branch is guilty of contempt.

9.A lawyer who represents one party in a proceeding and who thereafter represents the opposite party in the same proceeding, acts unethically and not representative of a counsellor of the Supreme Court.

10.The procedure for a reargument requires that it be requested by the petition to the Court, that the petition state the basis for the request, that a copy be served on the opposite party,

that at least one justice who concurred in the judgment to be reargued orders the reargument, and that the petition be filed within three days after the rendition of judgment.

11.A petition for reargument will only be granted where there is evidence of some palpable mistake made by the Court by its inadvertently overlooking some fact or point of law.

12. A counsellor is supposed to be conversant with the precedents of the Supreme Court and conduct himself accordingly.

13. The Supreme Court is the final forum for adjudication of disputes in Liberia, and an appeal of its decision to another branch of government is unconstitutional.

The respondent, Flaawgaa R. McFarland, a counsellor-at-law of the Supreme Court of Liberia, was cited by the Court for contempt of court after he and the residents of the Fallah Varney Bridge Community petitioned the Legislature for the impeachment of the members of the Supreme Court. The grounds stated in the petition for the impeachment request were corruption by and incompetence of the members of the Court. The petition was submitted to the legislature after the members of the Fallah Varney Community represented by the respondent, has lost a case before the Supreme Court.

In his returns, filed in response to the citation of contempt, and in his arguments before the Court, the respondent reiterated the allegations made in the petition to the Legislature that the members of the Supreme Court were either corrupt or incompetent.

The Supreme Court viewed the petition to the Legislature, the returns to the citation of contempt, and the arguments of the respondent as gross contempt to the Court, and ordered the respondent disbarred from the practice of law in Liberia for his entire life time. The Court held that acts which brought or had the tendency to bring the Court into disrespect, disrepute, and disregard, or conduct which in law constituted an offense against the authority, dignity, majesty, or dignity of the Court or a judicial officer in the performance of his judicial functions constituted contempt of court.

The Court opined that the definition or act of contempt included acts by a person to obtain the intervention of an official of the Executive or Legislative Branch in a civil matter pending before or decided by the. Court. These elements of contempt, the Court said, applied equally to lawyers practicing before the Court and it cited a long line of cases in which the Court had held lawyers in contempt of court for conduct similar to those exhibited by the respondent. This, the Court noted, was particularly applicable both in the past and in the instant case where the act or conduct of the lawyer, in appealing to the other Branches of the government, or in falsely accusing the Court, sought to generate a conflict between the Judiciary and one of the other branches, and to thereby undermine the dignity and confidence in the judiciary. The Court opined that the proper course for the respondent to have pursued, having lost the case decided by the Court, was to file a petition for

reargument, and not to seek redress through the Legislature and thereby bring the Court into ridicule.

The Court observed that under the Constitution, it was the highest and final forum for the adjudication of cases and noted that an appeal of its decision by the respondent was not only unconstitutional but a violation of the ethical and professional conduct expected of the respondent. The respondent, it said, remained uncompromising and impenitent, and that for such behavior he be *adjudged* in contempt and disbarred from the practice of law in Liberia for the remainder of his life.

Flaawgaa R. McFarland of the Flaawgaa R. McFarland Legal Services, appeared for the movant. *Joseph Andrew, Julius Adighibe* and *M Fahnbulleh Jones* appeared as *Amici Curiae*

MR JUSTICE JANGABA delivered the opinion of the Court.

On August 18, 1986, this Court issued a citation for contempt of the Court against one of its practicing counsellors, respondent herein, Flaawgaa Richard McFarland, counsellorat-law. Considering, for the sake of duplication, that the said citation gives a detailed outline of the history of the circumstances necessitating its issuance, we have thought it convenient to reproduce it here word for word and letter for letter. The citation reads thus:

"IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, OCTOBER TERM, A. D. 1986.

PRESENT: HIS HONOUR: James N. Nagbe, CHIEF JUSTICE

" " Elwood L. Jangaba, ASSOCIATE JUSTICE

" " J. Patrick K. Biddle, ASSOCIATE JUSTICE

" " Frederick K. Tulle, ASSOCIATE JUSTICE

" " John A Dennis, ASSOCIATE JUSTICE

IN RE: COUNSELLOR FLAAWGAA R. McFARLAND OF THE CITY OF MONROVIA, LIBERIA, RESPONDENT

CITATION FOR CONTEMPT REPUBLIC OF LIBERIA TO: BRIG. GENERAL JEHU T. STRYKER, SR. MARSHAL. SUPREME COURT OF THE REPUBLIC OF LIBERIA MONROVIA. GREETINGS:

YOU ARE HEREBY COMMANDED to cite Flaawgaa R. McFarland, Counsellor-At-Law to appear before this Court during its October Term, A. D. 1986 to show cause, if any he may have, why he should not be attached in Contempt of the Honourable, the Supreme Court of the Republic of Liberia, for reasons as follows, to wit:

1. That the respondent herein was counsel for petitioners in the case:

Nathaniel Lewis, G. Boyee Togba,)
Swen Nippy and others of Monrovia,
Liberia, PETITIONERS) PETITION FOR A WRIT OF CERTIORARI
VERSUS
His Honor Frederick K. Tulay,)
Resident Judge, Sixth Judicial Circuit,)
Montserrado County,)
John G. T. Nagbe and the Ministry of Justice,)
RESPONDENTS GROWING OUT OF THE CASE:)
Nathaniel Lewis, G. Boyee Tagba,)
Swen Nippy and others of Monrovia,)
Liberia) -------INFORMANTS) BILL OF INFORMATION
VERSUS
John G.T. Nagbe and the Ministry of Justice,)
represented by its legal representative,)
Honourable Sie-A-Nyene Youth,)
Assistant Minister, Justice for Legal Affairs,)
Monrovia, Liberia-------)
RESPONDENTS GROWING OUT OF THE CASE :)
John G.T. Nagbe by and thru the)
Ministry of Justice,)
Republic of Liberia------PLAINTIFF)
VERSUS ACTION OF EJECTMENT
Nathaniel Lewis, G. Boyee Tobga,)
Isaac Tugbe Wleh, Swen Nippy,)
Prince--------DEFENDENTS)

In which the Court, sitting *en bane, made* a ruling specifically quoting the relevant portion of the Chambers Justice's ruling as follows:

"The four-count petition for certiorari filed by the petitioners state in substance that petitioners are defendants in an eviction mandate from the Ministry of Justice to His Honour Judge Frederick K. Tulay to have the Petitioners evicted from their land and because it is claimed that their land falls within the 42.5 acres of land granted to the late G. Koffa Nagbe, which had descended to his heir John G. T. Nagbe. The petitioners further claim that they filed information before the respondent judge contending that they have titles to the area occupied by them and that said area is not within the 42.5 acres of land belonging to the late Koffa Nagbe. The petitioners therefore requested for an arbitration comprising of surveyors to go and survey Koffa Nagbe's 42.5 acres of land, but the judge

ignored their request and decided to evict them without due process of law; that is, without filing any legal proceedings as required by the ordinance upon which the respondent judge relied to evict them. After the ruling which the respondent judge denied them the privilege of an appeal and therefore the only alternative opened to them was to come by writ of certiorari to review the ruling. The petitioners are not contending against the existence of the 42.5 acres of land to respondent John G. T. Nagbe granted under Executive Order No. 10-A.

Respondents maintain in their amended returns that the petition should be dismissed because the petitioners have woefully violated the statute on certiorari by their failure to pay the accrued costs, in keeping with sec. 16.23 (3) of 1 LCLR. To buttress the violation of this mandatory requirement of our statute, the respondents attached a certificate from the clerk of the trial court, and they therefore ask that the petition be dismissed. The respondents further averred that the petitioners were regularly and duly summoned, but they failed to appear or failed to answer. Therefore, when the case was called for trial on the 4th of February, 1984, the petitioners were called three times at the courtroom door by the sheriff, according to practice and procedure., but they failed to answer: whereupon a plea of not liabre was entered in their favor and an imperfect judgment entered for the co-respondent. John G. T. Nagbe. A trial fury was thereafter duly empaneled, sworn and qualified to try the case. Trial was had according to procedure and ended with a judgment against the petitioners, and a writ of possession was issued in favor of John G. T. Nagbe and served on the petitioners. Respondents further argued that certiorari will not lie either to review a final judgment or against the order of a court for the enforcement of its final judgment, as is in the instant case."

As much as we would like to delve into these legal arguments advanced by the parties, but we are precluded from doing so because of the failure of the petitioners to pay the accrued costs, which is a mandatory requirement of the statute, as found in the Civil Procedure Law, Rev. Code 1: 16.23, under procedure in certiorari, which we quoted hereunder:

2. That the Chambers Justice, former Justice Boima K. Morris of the Honourable Supreme Court of Liberia, after hearing arguments *pro et con* ruled quashing the alternative writ of certiorari and denied the said petition as follows:

"In view of the foregoing, it is our ruling that the mandatory requirement of the statute not having been met and also because the judgment sought to be reviewed is final and certiorari will lie only to review an intermediate order or an interlocutory judgement and not a final judgment, as in the instant case, the petition is hereby denied. The alternative writ is quashed and the peremptory writ denied with costs against the petitioner. The Clerk of this Court is instructed to send a mandate to the court below ordering the judge presiding therein to

resume jurisdiction and enforce its judgment. Costs against the petitioners. AND IT IS SO ORDERED."

"Given under my hand in open Court
this 31st day of December, A. D. 1985.
/s/ Boimah K. Morris
/t/ Boimah K. Morris
ASSOCIATE JUSTICE PRESIDING IN CHAMBERS"

Whereupon the petitioners, represented by the respondent excepted to the Chambers Justice's ruling and announced an appeal which was granted.

3. That during the sitting of the March Term, A. D. 1986 of the first Supreme Court of Liberia in the Second Republic, constituted in accordance with the provisions of the new Constitution of the Republic of Liberia, the Court heard argument *pro et con* in the case and handed down its opinion on the 1st day of August A. D. 1986. Speaking for the Full Bench, Mr. Justice J. Patrick K. Biddle quoted the ruling of the former Justice, Mr. Justice Morris, as shown in counts 1 and 2 above, and concluded as follows:

"It is therefore our holding that under the circumstances and in view of the appellants' admission that indeed a final judgment was rendered against them by the court below, certiorari cannot lie. Our position is supported by statute and several opinions of this Court. In the case *Republic of Liberia v. Weatuah and Hunter,* appealed from the ruling in Chambers on application for certiorari, decided 1954, as found in 16 LLR 122, this Court held: "The corrective competence of the writ of certiorari ends with the determination of the case out of which it grows, as in this case where the writ was applied for after judgment had been rendered." See also *Harris v. Harris and Williamson,* 9 LLR 344 (1947); *Ajavon v. Bull et. al.,* 14 LLR 178 (1960). In this jurisdiction, where a party to a suit in a lower court of record feels or has reason to believe that a final judgment was rendered against him and that at the time of the rendition of such judgment he was legally incapacitated to take an appeal therefrom, the proper remedy provided for under our law is not certiorari but a writ of error. Civil Procedure Law, Rev. Code. 1: 16.21(4), Writ of Error . . . ." The above quoted ruling of the Justice in Chambers having adequately dealt with the other aspects of the office and function of the writ of certiorari is, in the opinion of this Court, in harmony with law and therefore should not be disturbed. Had the learned counsel for the appellants exercised prudence in this case, he would have made some genuine effort to secure time from the court below so as to enable the appellants to vacate the premises instead of resorting to these multifarious and unmeritorious suits simply to thwart the administration of justice and enforcement of the lower court's judgment.

Wherefore, and in view of the foregoing, the ruling of the Chambers Justice is hereby affirmed and confirmed but with this modification: That said judgment be enforced without prejudice to any lawful arrangement made or arrived at with the heirs of the late G. Koffa Nagbe, represented by appellee, for the purchase or lawful occupancy of any portion of the 96.5 acres of land, as restored to appellee by Executive Ordinance 10-A or Decree no. 80, if the heirs of Nagbe so desire. Costs against appellants. AND IT IS HEREBY SO ORDERED."

4. That volume 5, number 48 of the newspaper named and styled "THE MIRROR", in its issue of Friday, August 8, 1986, published in Monrovia, Liberia, and under its lead headline "CITIZEN WANTS SUPREME COURT IMPEACHED", expressly stated on page 6 that:

"The Supreme Court in its ruling confirmed that in view of the fact that a jury trial was heard on February 4, 1984 with regards to "action of ejectment" of the petitioners from Fallah Varney Bridge Community, the case could not be reviewed and rendered its ruling in favour of the Nagbe heirs;" and attributed to respondent herein named as the source of its information and as the person who presented the petition to the Speaker of the House of Representative as follows:

"The petition, signed by 10 members on behalf of the `Fallah Varney Bridge Community' on Bushrod Island, through Counsellor Flaawgaa R. McFarland, presented the petition to the Speaker of the House of Representatives yesterday."

5. That the respondent, counsel for the petitioners of the alleged petition to impeach the Supreme Court, knew very well that the statement above quoted was from the Chambers Justice's ruling and not what the Bench *en banc* said in its opinion rendered on August 1, 1986, thereby falsely, recklessly and knowingly imputing that the Bench *en banc* had stated facts which it had no knowledge of, with the intent to castigate, ridicule and impugn the integrity of the Supreme Court of Liberia.

6. That counsel for the petitioners in the certiorari proceedings, Counsellor Flaawgaa R. McFarland, respondent in these contempt proceedings, knowing fully well that in keeping with the statutes controlling certiorari proceedings, it is the writ ordered by the Chambers Justice which directs the respondent judge of the inferior court to forward certified copies of the records of the proceedings pending in the court out of which certiorari is applied for, and from the review of the records that the Chambers Justice makes his decision.

And also respondent is fully aware of the fact and the law that the Supreme Court only reviews the records in the case, whether on regular appeal or on appeal from the Chambers Justice, and that it is restricted to call for the files or records in any given case from the subordinate court, especially so when the Chambers Justice in his ruling expressly referred to the minutes or records of the subordinate Court. But the respondent elected to support and

add his weight to the petition which states that this Court should have obtained the files on an appeal from the Chambers Justice to ascertain whether or not the regular trial was indeed had on the 4th of February, A. D. 1984 at the Civil Law Court, Temple of Justice, as against the Chambers Justice's ruling, quoted in the opinion. Because the Bench *en banc* did not permit this innovation, the petitioners, through the respondent, requested the Legislature to impeach this Court, with the view not only to bring the Supreme Court of Liberia to disrepute, disgrace and ridicule, but also with the intent to disqualify the competence and ability of Justices in the said Court.

7.That after presenting the alleged petition of his clients to the Honourable, the Speaker of the House of Representative, the respondent elected to have the petition published in the newspaper "THE MIRROR", Volume 5, number 48, of Friday, August 8, 1986, thereby accomplishing his planned purposeful design to widely publicize and disseminate the content of the said petition nationally and internationally, and evidencing his deliberate act of not only bringing the Supreme Court of Liberia to public ridicule, and inciting the citizens of Liberia and foreigners in this country to lose confidence in the integrity and ability of this Court, but also painting an ugly and questionable picture of the judicial system of Liberia.

8. That the same newspaper which featured the respondent as the source of information expressly stated on page 6 as follows:

"They also contended that in the absence of the establishment by the Honourable Supreme Court that a case was held on February 4, 1984, the petitioners maintained that in view of the arguments advanced that the full bench of the Honourable Supreme Court was either bribed, or in the alternative, in possession of a degree of inability impairing its ability to function efficiently and effectively as defined under Article 71 of the Liberian Constitution", which tends to imply that the Supreme Court of Liberia is corrupt, susceptible to the influence of bribery or has no legal competence, thereby impugning that the President of Liberia and the Liberian Senate erred in nominating, consenting to and appointing the members of this Court.

"YOU ARE HEREBY COMMANDED TO NOTIFY the said respondent in these CONTEMPT PROCEEDINGS to file his returns in the office of the Clerk of the Honourable the Supreme Court of Liberia, Republic of Liberia on or before the 28th day of August, A. D. 1986; and TO READ TO HIM the original of this citation and furnish him a copy thereof for his full and detailed information; and

YOU ARE FURTHER COMMANDED to make Your official returns into the office of the Clerk of the Honourable the Supreme Court of the Republic of Liberia, Temple of Justice Building, on or before the 28th day of August, A. D. 1986, as to the manner of service of said citation.

AND FOR SO DOING, THIS SHALL CONSTITUTE YOUR SUFFICIENT AND LEGAL AUTHORITY. GIVEN UNDER MY HAND AND SEAL OF THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA THIS 18th DAY OF AUGUST A. D.1986. Emily N. Dunbar ACTING CLERK, SUPREME COURT, R. L. SEAL:

Said Counsellor McFarland's reaction was to file a ten (10) count returns to the foregoing citation for contempt, along with a two-count motion for the entire Bench of this Court to recuse itself from hearing the said contempt proceedings. The said motion for recusal of the full bench was captioned "IN RE: RESPONDENT'S MOTION TO HAVE THE FULL BENCH OF THE HONOURABLE THE SUPREME COURT OF THE REPUBLIC RECUSE ITSELF FROM ADJUDICATION OF THE CONTEMPT PROCEEDINGS UNDER WHICH THIS MOTION BREWS, AS INTERESTED AND LIKELY RESPONDENTS IN THE 1,500 CITIZENS IMPEACHMENT PETITION TO THE NATIONAL LEGISLATURE: GROWING OUT OF: IN RE: COUNSELLOR FLAAWGAAR. McFARLAND OF THE CITY OF MONRO-VIA, LIBERIA---RESPONDENT, CONTEMPT OF COURT."

Count one of said motion, true to its caption, required that the full bench of this court recuse itself from hearing the contempt proceedings because of the contentions raised in the respondent's returns. Count two maintained that such a recusal "is about the fairest and the simplest accommodation this Court can grant under all of the circumstances argued before it". The motion closed with a prayer which reads thus:

"Wherefore and in view of the above, movant/respondent prays this Honourable Court to grant this motion and thereby requiring each member of the Full Bench of the Honourable, the Supreme Court, to recuse himself from the adjudication of the contempt proceedings out of which this motion grows, and submit."

The *amici curiae* countered the motion with reference to the law extant in this jurisdiction, outlining the conditions under which a judge or Justice may recuse himself from the hearing of a case, particularly brought to the attention of the Court the precedent where this Court had denied a similar motion by C. Abayomi Cassell, a counsellor cited in contempt of court in June 1979, on the grounds that a court citing a party in contempt had the authority to hear and determine the contempt proceedings.

The motion was first heard and summarily determined before the actual contempt proceedings was called for hearing. The Court denied the motion on the basis of our laws and the established precedents, both in this jurisdiction and in analogous jurisdictions, but especially on the basis of the precedent set forth in the contempt matter of *In re C. Abayomi Cassell, Counsellor-At-Law,* heard and determined in its March Term, A. D. 1979. *See In Re: C. Abayomi Cassell, Counsellor-At-Law,* 28 LLR 107 (1979).

Upon denial of the respondent's motion for recusal, the Court proceeded to hear the actual case of contempt against him. In his entire ten-count brief, the respondent at no instance denied the basic allegations of the citation issued against him by this court. Rather, the brief he filed and argued was in total justification of the acts which the Court had deemed contemptuous and which had necessitated its issuance of the citation of contempt against him. The basic arguments in respondent's brief ran as follows: That the matter out of which the contempt proceedings grew is legislative and not judicial in as much as the 1986 Constitution, at Articles 43 and 71, provided for impeachment which is a legislative and not a judicial prerogative; that based upon Article 3 of the said Constitution, which provides for the separation of powers and checks and balances, the contempt proceedings against him were prohibited and should not be maintained; that the petition which he and the 1,500 citizens/residents of the Fallah Varney Bridge Community had filed before the Legislature against this court was an exercise of a constitutional right under Article 17 of the 1986 Constitution, which authorizes citizens to petition their representatives and other functionaries of government with their grievances; that the Supreme Court suffered from or labored under a constitutional inability under Article 71 when it confirmed and affirmed the ruling of a Chambers Justice, upon records certified to it by the said Chambers Justice Without reference to the records of the court from which the proceedings had originated and without regards to the Supreme court's practice relative to the diminution of records; and ally, that in stating in its citation that respondent's petition Implied that the President and the Liberian Senate erred when they appointed the present Bench of the Supreme Court, said 3ench was playing politics in judicial matters when in fact heir own act in affirming that a case involving the Fallah Varney Bridge Community was heard on February 4, 1984, when that was not the case, confirmed respondent's allegations n the impeachment petition that this Bench was either bribed r that it was incompetent in the contemplation of Article 71 of the 1986 Constitution. Respondent's brief closed with a prayer for the dismissal of the contempt citation against him, and further that he be granted all other reliefs under the law.

The *amici curiae,* on the other hand, very strongly contended and submitted that the aspersions cast on the Honourable Supreme Court by respondent's petition to the Legislature were unfounded, derogatory, defamatory, scandalous and libelous; and that same were *ipso facto* unwarranted, and had the tendency to create a constitutional, judicial, legal and political friction between the Judiciary and the Legislature on the one hand, and between the Judiciary and the Executive Branches, inconsistent with the constitutional provisions governing the separation of powers and checks and balances, on the other. Specifically, they maintained that the respondent counsellor had three (3) days in which to file a petition for reargument, and that he ought to have made use of that procedure rather than appeal to the Legislature to review a judicial decision; that by Article 3 of the Constitution, the Legislature could not properly review the Judiciary, as that will be in contravention of Articles 3 and 73 of the Constitution; that Article 65 makes the Supreme Court the highest judicial power in

the Republic, whose decisions are not subject to appeal or review; that according to established precedent, a counsellor who appeals decisions of the Supreme Court to the other branches of government is guilty of contempt of court; and finally, that the Supreme Court should punish for contempt any deceptive practice which might have the tendency to reflect discreditably upon the Judicial Branch of government, or which tend to belittle it because of its decision, or which might show disrespect to it or its Justices, or which might defy its authority. The friends of the Court closed with a prayer to the Court that, consistent with the provisions of the Constitution, it deter-mines whether or not the respondent's returns justified the charge of gross contempt against him considering that his acts were in utter violation of his professional oath as a lawyer.

From the foregoing detailed analysis of these contempt proceedings, we are of the opinion that the following issues are salient for our determination:

1. What conduct amounts to contempt of this Court?

2. What is the legal position of a practicing lawyer of this Court who appeals its decision to another branch of government?

3. What is the procedure required where one, two, or less than five of the Justices of this Court refuse to grant a re-argument?

4. Whether or not under our laws the acts of the respondent and the brief filed by him are actually sufficient to hold the respondent in contempt of this Court?

We will resolve these issues in the order in which they are resented beginning with the first, which is, what conduct mounts to contempt of this Court? This issue is often disussed in this jurisdiction and every counsellor of this Court should be familiar with it. Our law reports are replete with dilutions of what this Court considers as contempt against its dignity and authority as the highest and final Court of this land. Deed, we may not even need any foreign authority on the matter of contempt of court.

This Court has held that "To constitute contempt, there must be improper conduct in the presence of the court, or so near thereto as to interrupt or interfere with its proceedings; or some act must be done not necessarily in the presence of the court, which tends to adversely affect the administration of justice". *King v. Moore,* 2 LLR 35 (1911). Similarly, in defining a constructive contempt, this Court said that "A constructive contempt is an act done not in the presence of the court, but at distance, which tends to belittle, to degrade, or to obstruct, interrupt, prevent, or embarrass the administration of justice". *Liberian Bar Association v. Gittens,* 7 LLR 253 (1941). The court has also held in a more recent case that "It is a well settled rule that any act or conduct is contempt which obstructs or is calculated to lessen its authority or the dignity, or to bring e administration of law into disrespect or disregard, or any conduct which in law constitutes an offense against the authority and dignity of a court

or judicial officer in the performance of his judicial functions. *Raymond International (Liberia) Ltd., v. Dennis,* 25 LLR 131 (1976). And yet another recent case has held that "Generally, acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty, or challenge its authority constitute contempt of court". *Branly v. Damply of Liberia,* 22 LLR 337 (1973). In fact, the opinion in that same case continues to hold for the obvious reasons that "The definition of contempt of court applies in a special manner to lawyers and the offense is deemed much more grave than when committed by laymen".

At this juncture, we would like to put an end to an almost inexhaustible definition of contempt as found in the opinions and precedents of this Court, and commence to give an opinion on the second issue which deals with the legal position of those people, especially lawyers, who make it a practice to appeal the decisions of this Court of last resort to another branch of government, and who seek thereby to perpetuate conflicts between the Judiciary and the other branches of government.

We are also amply favored by precedent on that issue. In that light, we shall first consider the case *In re McDonald Acolatse,* 26 LLR 456 (1977), where a counsellor of the Supreme Court of Liberia had written a letter to the President of the Republic charging the Chief Justice and Associate Justices of this Court with corruption after they had granted a writ of prohibition against the enforcement of a judgment in a libel suit against a non-party. In that case, this Court held that "A lawyer who attempts to create conflict between the Executive and Judicial Branches of Government by seeking a review by the Chief Executive of a decision by the Supreme Court in civil cases is subject to disbarment." The Court continued: "An unfounded charge of corruption against Justices of the Supreme Court contained in a letter written by a lawyer to the President of Liberia tends to impair the dignity of the Court and undermine confidence in the Judiciary, and is accordingly ground for disbarment." *In re: MacDonald Acolatse,* 26 LLR 456 (1977). In that case, the honourable Counsellor was disbarred from the practice of law in Liberia for life.

Also in the case *In the matter of P. Amos George and Joseph Findley,* wherein the respondents, counsellors of the Supreme Court had written false charges against this Court to the President of Liberia after losing error proceedings before the Court, the two counsellors were held in contempt of Court. The Court stated that "Counsellors-At-Law who, after an adverse decision in the Supreme Court on writ of error proceedings, write to the President of Liberia, falsely charging that the case was decided without copies of the records transmitted from the trial court and that they had been denied their day in Court may be held in contempt". *In re P. Amos George and Joseph Findley,* 26 LLR 435 (1978). In that case the Court fined said counselors$ 1,000.00 each, to be paid as mandated in the opinion, or face suspension until payment was made.

Further, in the *case In re Beatrice Dennis-Webbo and Venus Dennis,* two of the parties to an action for damages which had been appealed to the Supreme Court, wrote the President of Liberia charging the Court with corruption. They were cited and held in contempt of court and fined 200.00 each, to be paid as directed by the opinion, or be imprisoned in the common jail until payment was made. The Court held therein that: "A person who acts to obtain intervention of an official of the Executive or Legislative Branch of Government in a case pending in the Judicial Branch is guilty of contempt". 27 LLR 355 (1978).

In the instant case, Counsellor McFarland blamed the Supreme Court for refusing to call for the records from the trial court; an act which he said constituted one of his reasons for appealing to the Legislature. But what difference, may we ask, would it have made in the matter since the whole exercise was essentially a mere formality in carrying out the decree of the People's Redemption Council (PRC) and the terms of Ordinance 10-A, which had in effect already conveyed the land in question. What remained to be done was only for the Ministry of Justice to put the Nagbe heirs in possession, procedurally going through the courts to do so. It happened that the contemnor in this case was one of the lawyers for the state representing the Nagbe heirs. The purpose of the court proceedings was to put the heirs in possession and not to determine title. The counsellor then changed colours and began representing the opposite side in the same matter out of which his contempt originated. In this new role, he requested that we determine the title to the property, an act which is unethical and not representative of a counsellor practicing before this Honourable Court.

The third issue concerns the question of reargument and the procedure to be followed in requesting one. The procedure for a reargument requires that it be requested by petition to the court with the petition stating the basis for requesting it, and a copy served on the opposite party. It also requires that one of the Justices concurring in the judgment is to be reargued order the same. The petition for reargument is to be filed within three days after the rendition of judgment, and permission for the requested reargument will only be granted where there is evidence of some palpable mistake made by the Court by it inadvertently overlooking some fact or point of law. Revised Rules of the Supreme Court, Section IIC, Reargument, Parts 1, 2 and 3.

This brings us to the final issue in this matter, that is, to determine whether or not the acts of the respondent for which he was cited, along with the returns and brief filed with this Court are contemptuous, according to all that has been said in this opinion. We are of the unanimous opinion that the respondent has been grossly contemptuous to this court. The fact is that the respondent, as a counsellor-at-law representing a party, had a right to file a petition for reargument on behalf of his client after losing the matter before this Court, but which he flagrantly failed to pursue. Where one or two or even any number of Justices less than five who concurred in an opinion refuses a reargument, the petitioner must still exhaust

all available remedies by seeking the approval of his petition by any of the other Justices who signed the opinion. In this case, the respondent argued that the Chief Justice and Associate Justice Dennis had denied approval of his petition for reargument. However, he admitted that he had failed to try any of the other remaining Justices of the Supreme Court. As a counsellor of this Court, he is supposed to be conversant with the precedents thereof and he should conduct himself accordingly, instead of making a mockery of this Court. He must have known that when he accused this Bench of bribery, corruption and an inability to comprehend our laws, he was at the same time demoralizing the dignity of the Court, in the light of such unfounded charges. He must have comprehended that this Court is the highest and final forum of adjudication of this land, and that an appeal of its decisions to another branch of government was unconstitutional, and could lead to certain conflict between this Branch and said other Branches of government. The charges levied against all of the Justices, including those who did not even participate in the hearing were completely false.

Respondent remained uncompromising and impenitent, even in the face of all the evidence against him and he broadly exhibited to every serious mind the lack of the professional spirit of patience, caution, care and diligence, both in his acts and in his arguments. Therefore, this bench has no alternative but to adjudge the said respondent, Flaawgaa Richard McFarland, in gross contempt of the dignity, respect and authority of this Honourable Court, and to view his action as a shame to our legal profession and practice.

Wherefore and in view of the foregoing, the respondent is hereby adjudged guilty of gross contempt and is hereby completely and totally disbarred from the practice of law in any form or manner, directly or indirectly, forever hereafter within the Republic of Liberia. The disbarment shall take effect as of the rendition of this Judgment. And it is hereby so ordered.

Appellant adjudged in contempt.