

IN RE: CONTEMPT PROCEEDINGS AGAINST COUNSELLOR JOSEPH N. BLIDI,
Respondent, growing out of the case: IN RE: M. ALEXANDER KETTER, by and thru his
Attorney-In-Fact, FRANCIS A. DENNIS, JR., Plaintiff/Appellant, v. WILLIE F. JONES et
al., Respondents/Appellees.

CONTEMPT PROCEEDINGS

Decided and issued: November 7, 2001.

1. Although the refusal to work, as a concerted activity of any group of persons to express a grievance or to accomplish a legal and legitimate objective, is constitutionally protected under constitutional clauses of freedom of expressions and freedom of association, yet, because of the nature of certain professions or the adverse impact which a refusal to work by certain persons may have, such persons may be prohibited from exercising such right, such prohibition being for the purpose of protecting and securing public order, safety, health, morals, etc.
2. Where the refusal to work by persons engaged in employment in the private sector of the economy poses a threat to the national health, safety, security, or economy, their concerted action may be enjoined either directly by the president through an executive order or directly through a court injunction.
3. Secondary boycotts intended to bring indirect pressure on a person by involving neutral or secondary persons are disallowed and discouraged.
4. The election of the Liberian National Bar Association not to seek a judicial remedy of their grievances against the House of Representatives, and to instead resort to boycott judicial proceedings, is irregular and improper.
5. Boycott action by lawyers against the judiciary is a violation of their duties as lawyers as well as their oath taken upon being admitted to the Bar.
6. It is unprofessional for a lawyer to advise, initiate or otherwise participate, directly or indirectly, in any act that tends to undermine or impugn the authority, dignity, or integrity of the courts or judges, or which hinders the effective administration of justice.
7. It is the duty of every lawyer, and he should strive at all times, to uphold the honour and maintain the dignity of the profession and to improve not only the law but also the administration of justice.
8. No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive any advice involving disloyalty to the State.

9. No lawyer should disrespect the judicial office which they are bound to uphold or condone the corrupt and dishonest acts of any person or persons exercising public office or private trust.

10. Every member of the legal profession, be he a judge or a practicing lawyer, under the professional oath taken by him to support the Constitution and laws of the Republic of Liberia and the rules of court, must stand firm and committed to the enforcement thereof, through the courts or the Grievance and Ethics Committee of the Liberian National Bar Association.

11. The Supreme Court, as the head of the Judicial Branch of the Government, has the constitutional and inherent power, responsibility and obligation to preserve and protect the Judiciary as a fully functional third branch of the government.

12. A prolonged boycott of the courts by the Liberian National Bar Association, which paralyzes the administration of justice and makes the judiciary nonfunctional, warrants the Supreme Court taking such remedial actions as are deemed necessary, appropriate and proper to secure, preserve, and protect the Judiciary.

Growing out of the arrest and detention of the Vice President of the Liberian National Bar Association and the President of the Montserrado County Local Bar on orders of the House of Representatives of the Liberian Legislature, the members of the two associations convened meetings at which they determined to boycott all proceedings in the courts until their officials were released. Acting in compliance with the said decision, the members of the Bar refused to attend court proceedings or to receive court processes, and they instructed their staff similarly not to receive any precepts from the courts. It was in direct response to the foregoing that the Supreme Court, on its own initiative, commenced contempt proceedings against certain lawyers. In its ruling, the Court held that while ordinarily persons engaged in work have the right under the Constitution to engage in boycotts in the exercise of their right of freedom of expression and association, this did not extend to lawyers since the boycott by the lawyers had the tendency to endanger public order, safety, health, morals, and the administration of justice. The Court ruled further that the action by the lawyers violated the Code of Ethics promulgated by it, the oath taken by them, and the Constitution and By-Laws of the Liberian National Bar Association, acts which it said warranted the Court taking emergency measures to correct the situation.

Accordingly, the Court ordered the lawyers to immediately resume their normal duties, including attending court proceedings, defending and protecting aggrieved persons,

complying with court rulings, orders, instructions and decisions, and instructing their staff, from receptionist upwards, to accept precepts of the courts. The Court warned that the failure of any lawyer to comply with its order will result in his suspension or disbarment from the practice of law.

SUPREME COURT'S ORDER

Pursuant to the Constitution and statute laws of Liberia, the Honourable Supreme Court of Liberia convened in its October Term, A. D. 2001 for the regular transaction of business on Monday, the 8th day of October, A. D. 2001. Immediately thereafter, as it is customary, the Court on its own and at the requests of lawyers, ordered that notices of assignment be issued out and served for the hearing of cases appearing on its docket.

The first of such assignments was dated October 9th, 2001 for the hearing on October 17th 2001, of the case Mattie Branch Reynold v. Madam Korpu Gartuah, motion to dismiss. Also, on the 10th day of October, A. D. 2001, notices of assignment were issued for the hearing of the following cases on the 18th day of October, A. D. 2001: Zinnah Moore of Duala, plaintiff/appellee, v. Sekou Nyei and Fatumata Passewe, defendants/appellants, action of ejectment, and The Central Bank of Liberia, movant, v. Brasilia Travel Agency and Tradevco Bank, Respondents, motion to intervene. Further, on the 11th day of October, A. D. 2001, a notice of assignment was issued for the hearing on the 22nd day of October 2001, of the case M. Alexander Keller, plaintiff/ appellant, v. Mr. & Mrs. Willie F. Jones and Oretha Whonday et al., respondents, action of ejectment.

The Marshal's returns indicated that upon the service of these notices of assignment, and others, some lawyers received the assignments, read them, and elected not to sign for them, stating as the ground for the refusal that the Liberian National Bar Association had resolved not to attend court proceedings until their colleagues, in the persons of Counsellors Marcus R. Jones and Ishmael P. Campbell, who were detained and imprisoned by the Honourable House of Representatives on contempt charges, were released unconditionally. While other lawyers received the assignments and signed for them, they refused to appear in Court for the hearing or to send any excuses for their non-appearance.

Also, from the Marshal's returns, this Court was informed that the service of many of these notices of assignment was frustrated and/or circumvented by lawyers who had given standing instructions to the respective staffs of their law offices or law firms not to receive any papers from the courts in the absence of the lawyers from their offices.

In keeping with its assignments, this Court proceeded to call the cases and upon reading the Marshal's returns the Court decided to cite the lawyers concerned to appear and show cause why they, and each of them, should not be held in contempt of the Honourable Supreme Court of Liberia for their deliberate refusal to receive the notices of assignment issued by the Court and to appear for the hearing of their clients' cases.

In addition to the above, judges of subordinate courts, thru official administrative channel, had informed the Supreme Court that indeed lawyers had over the last four weeks or thereabout refused to attend to the interests of their clients in all subordinate courts, both in courts of record and courts not of record; and that these actions had resulted in bringing to a complete halt all activities of the various courts, thereby paralyzing the functions and operations of the entire judiciary and denying aggrieved persons access to the courts and legal services.

This Court is convinced that due to the grave and extreme constitutional and other consequences which could further erupt from the continued and prolonged paralysis of the administration of justice, it is prudent and proper to take appropriate action to ensure that the Judiciary continues to function and that citizens and residents alike have ready access to the courts and legal services. We have therefore determined that the paralysis of the Judiciary has resulted in conditions of judicial urgency and emergency; hence, this Order.

It is the view of this Honourable Court that the protection and preservation of the Judiciary as an institution ensures the protection of the fundamental and other rights of individuals, both natural and artificial. While it is true that generally the refusal to work, as a concerted activity of any group of persons to express a grievance or to accomplish a legal and legitimate objective, is constitutionally protected by constitutional clauses on freedom of expression (1986 Constitution, art. 15) and freedom of association (1986 Constitution, art. 17), nevertheless, it is clear that by virtue of the nature of certain professions or the adverse impact which a refusal to work by certain persons may have on the public good, members of such professions are prohibited from exercising such right; or, in the exercise of such right, limitations may be placed thereon for purposes of protecting and securing public order, safety, health, morals, etc. For example, it is not debatable that those who elect to serve in the military and the security forces have no right to refuse to work; for to refuse to work, regardless of the legitimacy of the objective of such concerted action, is inimical to public order.

Also, for those persons engaged in employment in the private sector of our economy, where the refusal to work poses a threat to the national health, safety, security or economy, their concerted action may be enjoined either directly by the president through an executive order, or indirectly through a court injunction. Labor Law, Lib. Code, §§4401, 4403, 4404. Even in

the United States of America, the referenced legal system for Liberia, where a concerted labor action (e.g., strike or lockout) has the propensity to imperil or has imperiled national health and safety, or where such concerted labor action has the capacity to burden or obstruct, or has burdened or obstructed, commerce or the production of goods for commerce in an entire industry or a substantial part thereof, such labor action may be enjoined on orders of the President of the United States. 29 USCS, §§ 176-180; 48 AM JUR 2d, Labor and Labor Relations, §§ 2040-2041.

The decision of the Liberian National Bar Association to refrain from attending court proceedings for reason of actions taken by the House of Representatives of the National Legislature is in the form of a concerted labor action; but more than that, it is in the form of a secondary boycott, as that term is defined by law, since this concerted labor action is effectively against the Judiciary, which has not in any way aggrieved the Liberian National Bar Association or its individual members. It should be mentioned in passing that even in private industries, secondary boycotts, intended to bring indirect pressure on a person by involving neutral or secondary persons, is disallowed or discouraged. 48 AM JUR 2d, Labor and Labor Relations, §1225; BLACK'S LAW DICTIONARY 187, 1351 (6th ed).

Therefore, the election of the Liberian National Bar Association not to seek a judicial remedy of their grievances against the House of Representatives of the National Legislature, but to instead boycott judicial proceedings, is, in and of itself, irregular and improper.

The Liberian Government consists of three separate and coordinate branches: the Legislature, the Executive and the Judiciary. LIB. CONST. (1986), art. 3. The Judicial Branch is composed of this Honorable Supreme Court and subordinate courts established by the National Legislature (LIB. CONST. (1986), art. 65), and this Court takes judicial notice that this third branch of the Liberian Government functions through the activities and interaction of the bench (justices and judges) and the bar (lawyers). Without the bench, there is no Judiciary; without the bar, the judiciary cannot function. Therefore, the boycott of all court proceedings by all members of the Liberian National Bar Association has effectively paralyzed the Judiciary, the third branch of the Liberian Government. This paralysis of the Judiciary by the boycott instituted by the Liberian National Bar Association for almost four weeks presents a certain and clear state of judicial "emergency" of the nature, implication, and import similar to, if not graver than, those emergencies for which statutes provide that concerted labor actions may be restrained.

The boycott action by the lawyers violates their stated duties as lawyers as well as their oath taken upon being admitted as lawyers. The Code of Moral and Ethical Conduct of Lawyers,

as amended and revised January 1999, clearly addresses this issue. Rule 1, under the caption 'The lawyer's duties to the courts, states: "It shall be unprofessional for any lawyer to advise, initiate or otherwise participate, directly or indirectly, in any act that tends to undermine or impugn the authority, dignity, or integrity of the courts or judges, thereby hindering the effective administration of justice." Also, Rule 29(3), under the caption upholding the honour of the profession, states: "Every lawyer should aid in guiding the bar against the admission to the profession of candidates unfit or unqualified, because of deficiency in either moral character or education. It is the duty of every lawyer, and he should strive at all times, to uphold the honour and maintain the dignity of the profession, and to improve not only the law but the administration of justice."

Rule 33. Which deals with The lawyer's duty in its last analysis, says: "No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive any advice involving disloyalty to the State, or to the law whose ministers we are. No lawyer should disrespect the judicial office which we are bound to uphold, or condone the corrupt and dishonest acts of any person or persons exercising public office or private trust. A lawyer will find his highest honour in a deserved reputation for fidelity to private trust and to public duty as an honest man and as a patriotic and loyal citizen."

Rule 39, Commitment of lawyers and judges to the ethics and rules of the legal profession, says: "It is expected of every member of the legal profession, be he a judge or a practicing lawyer, under the professional oath he has taken, to support the Constitution of the Republic of Liberia and uphold the laws of his country and the rules of all courts, to stand firm and committed to the enforcement of these rules through courts or the Grievance and Ethics Committee of the Liberian National Bar Association set by the Chief Justice of the Supreme Court of Liberia."

In addition, the Oath of admission as Attorney-At-Law states:

"(name in full), do solemnly swear that I will always demean myself as a gentleman and a respectable and honorable citizen of the Republic of Liberia, and will support and uphold the Constitution, and uphold the laws of my country, and the rules of all courts of my country, and those governing the conduct of lawyers. I will at all times give that due respect to the courts of my country and do nothing to impugn the dignity and undermine the authority of the courts..." (Emphasis added).

Further, the Constitution and By-Laws of the Liberian National Bar Association also imposes a similar duty on lawyers. Article II, section 1(a) and (b), provides:

"(a) to promote the science of jurisprudence, advance the cause of legal education, and help maintain the independence of the judiciary;"

(b) to further secure the passage of legislation that will, from time to time, improve the judicial system and the proper administration of justice in the Republic.”

As in the case *Crusoe-Marsh v. Morgan-Bedell et al.*, 20 LLR 334 (1971), today we say and proclaim that this Court, as head of the Judicial Branch of the government, has the constitutional and inherent power, responsibility, and obligation to preserve and protect the Judiciary as a fully functioning third branch of the Liberian Government. We further say that the preservation and protection of the Judiciary as a fully functioning third branch of the Liberian Government is just as important or even more important than this Court’s obligation and responsibility to preserve the harmonious balance of the Government. It is the view of this Court that the prolonged boycott of the courts by the Liberian National Bar Association has so paralyzed the administration of justice as to make the Judiciary nonfunctional. It therefore becomes incumbent upon this Court to take whatever remedial actions it deems necessary, appropriate and proper, to secure, preserve, and protect the Judiciary.

The Supreme Court therefore, being cognizant of its constitutional, statutory, and inherent duties and responsibilities to ensure the continuous operation and functioning of all courts and the entire Judiciary as a fully functioning and effective part of the Government of Liberia, as well as to regulate the practice of law, and to ensure the dispensation of justice to all persons, has decided to seize itself of its duties and responsibilities aforesaid to accord this matter the importance and urgency it deserves.

The 1986 Constitution of the Republic of Liberia, at chapter 7, article 75, provides the following:

“The Supreme Court shall from time to time make rules of court for the purpose of regulating the practice, procedures and manner by which cases shall be commenced and heard before it and all other subordinate courts. It shall prescribe such code of conduct for lawyers appearing before it and all other subordinate courts as may be necessary to facilitate the proper discharge of the Court’s functions. Such rules and code, however, shall not contravene any statutory provisions or any provisions of this Constitution.”

The Supreme Court has therefore determined that the issue of the protection and continuous function and operation of the Judiciary presents conditions of urgency and emergency which require urgent attention and action. As such, the Honourable Supreme Court of the Republic of Liberia, acting under the authority of the Constitution and laws of this Republic and which Constitution and laws vest this Court with the inherent powers and authority to protect and preserve the Judiciary, shall now proceed to enter an Order, pending the final determination of this matter, to ensure that this institution continues to function and operate effectively without hindrance and/or obstruction in the execution of its constitutional and statutory mandate to interpret the law and administer justice; and further,

to bring relief to the citizens and residents of Liberia from violations of their fundamental and property rights due to the concerted refusal of lawyers to render legal services.

Wherefore, and in view of the above, the Supreme Court of the Republic of Liberia, in pursuance of its constitutional and statutory duties and responsibilities, hereby ORDERS and MANDATES the following:

1. That effective immediately, all lawyers are hereby ordered to resume their normal duties as lawyers which duties include, but are not limited to the defense and protection of aggrieved persons, both natural and artificial, attending court and administrative hearings and proceedings, and complying with court rulings, orders, instructions, and decisions, etc.
2. That hereafter, and immediately following this Order, all court papers or precepts will be deemed adequately and properly served if presented to any staff or personnel of all lawyers or law firms from the rank or position of receptionist and/or secretary, where applicable.
3. That this Order in no way affects or addresses the merits or demerits of these contempt proceedings.
4. That failure to adhere to and comply with this Order shall subject the violator(s) to suspension from the practice of law, directly or indirectly, for a period of one year or disbarment.
5. The Clerk of this Court is hereby ordered to circulate this Order to all subordinate courts within the Republic of Liberia for immediate implementation of, and adherence to this Order. The Clerk is further ordered to disseminate this Order to all media institutions, both print and electronic, for immediate publication. And it is hereby so ordered.