

**IN RE: JUDICIAL INQUIRY COMMISSION (JIC) REPORT: COMPLAINT OF ATTY.
MORRIS K. KABA & DARTY KABA AGAINST HIS HONOR ASSOCIATE MAGISTRATE
T. RICHARD BROWNE, SECOND JUDICIAL CIRCUIT COURT, GRAND BASSA
COUNTY.**

LRSC 45

Heard: November 23, 2015 Decided: December 19, 2015

MR. JUSTICE BANKS delivered the Opinion of the Court.

This case has its genesis in a complaint filed with the Office of the Chief Justice of the Honourable Supreme Court of Liberia on January 2, 2013 by Attorney Morris K. Kaba and Darty Kaba, wherein the complainants alleged that the respondent magistrate, T. Richard Brown, without any colour of the law, had perpetrated certain acts against Co-complainant Darty Kaba, son of co-complainant Morris Kaba, deemed by them to not only be in violation of the law and the Code of Ethics for the governance of judges, but a reprehensible abuse of the administration of justice. Specifically, the complaint alleged that on the 23rd day of December, A. D. 2012, the respondent magistrate, upon receiving a note of excuse from co-complainant Morris K. Kaba in regard to a criminal matter pending before the Magistrate Court, which note of excuse was delivered by co-complainant Darty Kaba on behalf of his father, the respondent magistrate informed Darty Kaba that as his father had failed to appear in court and who was scheduled to go to jail, as required by the court, co-complainant Darty Kaba would instead be sent to jail in the place of his father, Atty. Morris K. Kaba. In order to capture fully the allegations made against the Respondent Magistrate and the magnitude of the action attributed to him, we quote herewith the letter of complaint as follows, to wit:

OFFICE OF ATTORNEY MORRIS A. KABA
C/O U.S.I RANDALL STREET
MONROVIA, LIBERIA
CELL# 0886519266/0775700898

January 2, 2013

His Honor, Francis S. Korkpor, SR.
Chief Justice
Supreme Court of Liberia
Temple of Justice
Monrovia, Liberia

May it please Your Honor:

With compliments of my highest esteem, I have the honor to bring to your honor's attention for your kind intervention a very sad and reprehensible happening that has occurred within the judiciary, which if not checked and corrected will surely-work a great deal of wrong and injustice to my son, Darty Kaba in particular and the citizenry of Grand Bassa County in general.

Your honor, the synopsis of the happening, is that, during the week of Christmas, to be specific, on the 23rd of December 2013, I sent my son, the subject of this complaint to Associate Magistrate Richard

Brown, of the Buchanan Magisterial Court, Grand Bassa County, with a hand written note of excuse, expressing my inability to attend an assignment issued out of that court due to the death of my aunt in Upper River-Cess County, where I had gone prior to the maturity date of the assignment. Your Honor, when my son appeared before the associate magistrate at about 9:30 a.m. and presented to him the note mentioned supra, he ordered him to remain standing where he was until the content of the note could be read; he did just that and the note was accordingly read. Sir, after the note was read the associate magistrate remarked, "Your father was supposed to be in jail today this is why he sent you and so you will go in place of him." Thereafter, my son was handcuffed, shoes taken off his feet and placed on the prisoner bench, where, according to him he remained, from about 10:00 a. m. to 2:00p.m. before he was led by the associate magistrate himself to the Buchanan Common Prison in a pickup.

Mr. Chief Justice, what is more disturbing is that, the Associate Magistrate told the prison officials to place my son in room #3 of the Buchanan Central Prison which is a cell for convicted criminals for crimes such as murder, rape etc. That while room #3, the inmates attempted to sodomize him and that during that process when he resisted, he was severely beaten and his jeans trousers were torn off his body.

Your Honor, permit me to give notice that during the hearing of this complaint, we will produce the jeans trouser mentioned and a medical certificate to substantiate that as a result of the beating and other method of torture he sustained internal injuries.

Mr. Chief Justice, that upon hearing the news of the illegal detention of the innocent boy, contacted by way of telephone the resident circuit judge for Grand Bassa county, His Honor Benedict W. Holt to inform him of the act of the associate magistrate, but he did not allow me to even make a statement but threatened to imprison myself should the amount, which my client promised to pay to magistrate Richard Brown, was not paid the next day; even though I am not a defendant before magistrate Brown for surety for that matter. He failed to intervene and that it was through the instrumentally of Cllr. Albert Sims of the Sherman & Sherman Law Offices that my severely beaten son of injustice, was released the next day.

In light of the above, we would be infinitely pleased were Your Honor to kindly intervene in this ugly situation and provide justice to the victim so that same may serve as a deterrent for others who may elect to use unnecessary power as judicial officials to the detriment of the citizenry as it is in 'the case of my son.

I respectfully request that Associate Magistrate Richard Brown and Judge Benedict Holt be investigated as to this complaint and the allegation made herein.

Respectfully yours,

Morris A. Kaba
ATTORNEY-AT-LAW
MEMBER OF THE GRAND BASSA COUNTY LOCAL BAR

& COMPLAINANT."

The Chief Justice, on February 5, 2013, forwarded the matter to the Judicial Inquiry Commission, with the request that the Commission conducts an investigation into the allegations set forth in the complaint and submits its findings and recommendations.

As per the procedure adopted and pursued by the Commission, and consistent with the due process mandate of the Liberian Constitution, the Commission's Chairperson, Her Honour Sie-A-Nyene G. Yuoh, directed a letter to the respondent magistrate, along with a copy of complaint and the request that the respondent magistrate file a response, if any he had, to the complaint.

On March 4, 2014, the respondent associate magistrate submitted to the Judicial Inquiry Commission his reaction to the complaint lodged against him. In his reaction to the complaint, the respondent magistrate denied that the events had unfolded as stated by the complainant. In fact, the magistrate denied that he had made the statements attributed to him by the complainant, he denied that he had ordered Darty Kaba placed on the prisoner bench or that he had ordered the latter's commitment to jail on account of the failure of his father to appear in court as he was mandated to do. Rather, the respondent alleged that Darty Kaba had demanded that he be given a receipt to evidence that the letter which he had delivered to the magistrate was in fact delivered, and that upon the refusal of the clerk to provide Darty Kaba with a receipt for the letter, Darty Kaba began to display unruly conduct in the court and to reign insults upon the court. It was at this juncture, the respondent associate magistrate alleged, that he was constrained to order the arrest of Darty Kaba and to charge him with contempt. This is how the respondent associate magistrate narrated the sequence of events as alleged by him:

"May It Please Your Honor:

Your Honor, may I extend my thanks and appreciation for inviting me before the Judicial Inquiry Commission (JIC) based on a complaint filed by Attorney Morris A. Kaba to hear my side of the story. Your Honor, the genesis of the story is the State, thru one Andrew Vah, of Buchanan City, Grand Bassa County, instituted an action against one Welston Bloo with the criminal offense of Thief of Property before the Buchanan City Court. Attorney Kaba being a legal counsel for the defendant filed a Medicare Insurance Corporation Criminal Appearance Bond on November 11, 2013, and same was approved by your humble servant and released to Atty. Kaba. The State filed an exception to the bond. November 28, 2013, was the date assigned for the hearing of the exception. During the hearing of the exception, it was established that the Medicare Insurance Corporation Criminal appearance Bond was faked and obtained elsewhere and not from the Corporation. Atty. Kaba being a member of the Grand Bassa County Local Bar was given 72 hours to produce the defendant, since the defendant was not present in court. On December 5, 2013, Atty. Kaba filed summary proceedings at the 2nd Judicial Circuit Court against your humble servant including the City solicitor, and plaintiff. After the hearing in the summary proceedings at the 2nd Judicial Circuit Court, His Honor, Cllr. Benedict W. Holt, Sr. advised Atty. Kaba to heed to the ruling from Buchanan City Court and make available the defendant. The next

day, Atty. Kaba appeared in court and the notice of assignment was issued, served and returns served for hearing on December 23, 2013, because the relationship between him and the corporation was not cordial according to him.

Your Honor, on December 23, 2013, while sitting judicially in court presiding over a criminal matter, a young man entered the court room and give a Memo note dated December 20, 2013, to the Constable, Robert Guah under the signature of Atty. Kaba, counsel for the defendant and begin to rise his voice demanding that the court gives him receipt and because he could not get the receipt, identify as Darty Kaba, begin to misbehave in the court room disturbing the peace and dignity of the court with profane words, specifically calling me stupid and foolish man in the presence of party litigants and co-workers including citizens that came to witness the trial of cases in the court. Darty Kaba action cause the court to be paralyzed and abortive and could not hear cases assigned for the day until the 24th of December 2013.

Your Honor, your humble servant was compelled and constrained to order the clerk to issue a writ of contempt of court on Darty Kaba for disturbing and obstructing the administration of justice and bringing the court to public ridicule. The writ was issued, served and returns served but he refused to accept the writ and vow not to get in the dock to show cause why he cannot be held for contempt of court. Because of the disgrace, I retired in the court's chambers thinking Darty will see reason to apologize for his misconduct in the court room but his action continues and could not be tolerated at all. Therefore, he was incarcerated at the Buchanan common prison pending the hearing of the contempt of court. Your Honor, at about 6:45 p.m. Atty. Kaba via phone said that Mr. Big man so you jail my son, I will get even with you no matter what. I told him on the phone that his son has embarrassed and disrupt the court so he was jailed.

On the 24th day of December 2013, Darty Kaba was released for the hearing of the contempt of court and brought in court but beg that the court should have mercy on him because he bought a street food called Kanyan which caused him to misbehave in the court. He was pardoned and he left the court happy.

Your Honor, Atty. Kaba's complaint is purely based on hearsay. He has the chance to travel to Buchanan city where the allege injustice against his son was done, but then how old is this son that he cannot complaint anyone in his own words. This is merely intended as a dilatory tactics employed by Atty. Kaba to stay the Thief of Property prosecution against his client in the tune of three Thousand United States Dollars (US\$3,000.00) knowing that the defendant have gone out of the bailiwick of the Republic of Liberia.

Your Honor, also permit me to give notice that during the hearing your humble servant will produce evidence and witnesses concerning Atty. Kaba action in the court room. Besides, I don't carry defendant to the Buchanan common prison when I order his/her commitment, only the court's officers do.

I respectfully pray the commission to ignore the complaint, because it is false, misleading and had

not iota of truth to warrant any action against your humble servant in the premises.

Sincerely yours,

Richard Browne
Senior Associate Magistrate Buchanan City Court
Grand Bassa County"

The Commission, upon receipt of the respondent associate magistrate response, scheduled the hearing of the matter. The parties were allowed to testify in their own behalf and to produce witnesses to support their respective accounts of the events. At the conclusion of the hearing, the Commission handed down its findings and made recommendations consequent upon the findings made by it. We deem it appropriate to quote the Commission's Report, inclusive of its recommendations, so that the events as perceived by the Commission are fully grasp and that its recommendations are placed within the context of the evidence which was adduced at the investigation. Herewith is what the Commission said of the incident:

“Based upon a complaint filed to your office January 2, 2014 by Atty. Morris K. Kaba and Darty Kaba against Associate Magistrate T. Richard Browne, Second Judicial Circuit, Grand Bassa County, which was forwarded to Judicial Inquiry Commission for disposition, the Commission convened on Tuesday, March 25, 2014 at 3:00 p.m. in the Resource Center of the Temple of Justice Building when a hearing was conducted into the said complaint. Darty Kaba recounted the allegation contained in their complaint, that is, on December 24, 2013, he was sent by his father with a hand written excuse expressing his inability to attend an assignment issued out of Court due to the death of his aunt in Upper River-Cess County. Upon his arrival at the Court he told the Constable that he had an excuse from his father to present to Magistrate Browne. Magistrate Browne who was then sitting on the throne ordered Darty to come forward and remain standing until the content of the note was read, which he did. At the end of the reading, Magistrate Browne made the following remark “your father was supposed to be jailed today this is why he sent you and so you will go in place of him”. He was then handcuffed along with another criminal accused of theft of property, shoes taken off his feet, placed on the prisoner bench before being led to prison in a pick-up under the commitment charge of "Aiding and Abetting". He was placed among hard core criminals who did not only beat him but attempted sodomizing him.

In consonance with a citation and notice from the Commission, Magistrate Browne filed a returns denying the allegations contained in the complaint, counter averring that it was the complainant who had disrupted 'proceedings in the court by demanding for receipt of acknowledgement of the excuse, which resulted to him being charged with Contempt of Court.

Following the statement by the complainant, the magistrate, and witnesses, and questioned by the members of the Commission, the Commission made the below findings:

1. That the action of Magistrate Browne was as a result of another case between Atty. Kaba and one Mr. Andrew Vah for a criminal offense of Theft of Property which was before court, 2. That Darty Kaba's demand for receipt was ignored by the Court's Constable on grounds that he did not present an

additional copy of the excuse to serve the purpose of receipt.

3. That Associate Magistrate Browne also denied Darty Kaba's request for receipt by failing to order his clerk to do same.

4. That the disturbance in Court could have been avoided had Magistrate Browne done the right thing by giving Darty Kaba his receipt.

5. That the commitment charge sheet was erase/tampered with.

6. That granted the actions of the court officials and Magistrate, Darty Kaba was wrong when he proceeded to take matters into his own hands by disturbing the entire court with his demand for receipt.

By these findings the Commission submits the following recommendations:

1. That Associate Magistrate Browne be suspended without pay and benefits for three (3) months for excessive abuse of power and;

2. That Darty Kaba is written a warning letter informing him that the Judiciary does not encourage anyone regardless of who he is to indulge in any form of lawlessness.

Dated this 4th day of April, A.D. 2014

Submitted:

Justice Sie A-Nyene G. Yuoh
CHAIRPERSON

Cllr. Theophilus C. Gould
MEMBER

Magistrate Joseph Fayiah
MEMBER

Judge James E. Jones
MEMBER

Judge Boima Kontoe
MEMBER

Cllr. George Henries
MEMBER

Sister Mary Laurene Browne
MEMBER

Rev. Emmanuel Bowier
MEMBER

NOTE: Judge Boima Kontoe and Counsellor George Henries were not present at the hearing; hence they did not sign this report."

Again, consistent with this Court's continued adherence to the due process of law, a copy of the Commission's Report was forwarded to the respondent associate magistrate, with the request that he appears before the Supreme Court and defend himself against the findings and conclusions reached in the Report, if he desires to make a defense. At the same time, the Court requested Counsellors Negbalee Warner and Tiawan S. Gongloe, two members of the Supreme Court in good standing with the Liberian National Bar Association (LNBA), to serve as amicus curiae, a friend of the Court, in informing the

Court of the matter and of the decision and recommendation of the Judicial Inquiry Commission.

The amicus curiae, as per the request of the Court, prepared a brief which was duly filed with the Court,, supportive of the findings and position taking by the Commission. We are thankful to these honourable counsellors who not only demonstrated independence, as indeed they should, in advising the Court of the facts of the case and the governing laws, so that the Court is in the position to make a reasoned and just decision in the matter. We emphasize that the role of an amicus curiae is not to side with the Court or to be supportive of the Court; rather, the role of an amicus curiae, a true friend of the Court, is to provide the Court with a candid independent and legally sound position on a matter before the Court, of which the Court desires that an independent scrutiny be undertaken and an unbiased and candid view, supported by the law, be placed before the Court. This is what, in our view, the counsellors designated by the Court to serve as amicus curiae have done in the instant case.

In their brief filed with the Court, the amicus curiae articulated the position that action of the associate magistrate was not only a clear violation of the law and of the Judicial Canons governing the conduct of judges in the disposition of matters pending before their courts, but that the respondent associate magistrate out an unwarranted injustice against Darty Kaba,the son of the complainant. This is how they presented what t.hey believed was the sole issue for the consideration of this Court: “We submit that the sole issue presented by the foregoing facts and circumstances is this: Whether or not the action of the Magistrate Brown constitutes excessive abuse of Power?”

Having presented the issue, this is how the amicus curiae addressed the issue outlined by them:

“Judicial Canon Ten requires every judge to administer justice according to law. Citing Judicial Canon 8, the Honorable Supreme Court has also held as follows: Every judge should at all times be alert in his rulings and in the conduct of business of the court, so far as he can.”Judicial and ethical conduct of Judge Emery Paye held February 20, 2013. Judicial Canon 35 also provides that a judge/magistrate must avoid the abuse of discretion in the execution of his duty as a judge/magistrate. The foregoing laws and many other provisions of the Judicial Cannon impose clear obligations on a magistrate to act not only in keeping with laws, but calmly and in an alert manner that avoids exposing the court to public ridicule and scorn. In the instant case, Magistrate Brown did not meet his obligations under the Judicial Canon. He did not act in keeping with law regarding the basis and procedures for arrest of a person nor did he act in a manner that shows he was alert to the impact and nature of his conduct and rulings.

One Characteristic of a judge mentioned in Judicial Canon is that a judge should be temperate; assuming that the Magistrate action was based on the unruly behavior for which Darty was held in contempt, the magistrate should have conducted himself accordingly in keeping with his duties and responsibility as a magistrate/judge The magistrate should have firstly issued a writ of Arrest for contempt and have same served upon Darty Kaba before any action be taken. A magistrate cannot take any action against a person except the person is duly brought under the jurisdiction of the court. The court may only assume jurisdiction by issuing out writ of arrest or writ of summons. Gabbidon v. Flomo, Jallah, et al.,

26 LLR 214 (1977), Syl. 1, page 218, and *Seton v. Azango*, 20 LLR 674 (1971), syl. 1, page 676. We see none of these being issued out by the magistrate, even though Darty Kaba was in Court. This action on the part of the Magistrate, in our minds is an absolute abuse of judicial power and discretion.

A judge or magistrate himself is not above the law and therefore, must live and act in the confines of the law and his professional codes. Judicial Canon Thirty Five Provides that "A judge should be subject to disciplinary action for the wanton and reckless abuse of discretion which become violative of the Constitution, statute and laws." The Constitution of Liberia (1986), Chapter III, Article 20 (a), states "No person shall be deprived of life, liberty, security of the person, property, privilege or any other right except as the outcome of a hearing judgment consistent with the provisions lay down in this Constitution and in accordance with due process of law....." The Supreme Court has held, "A judge is vested with the responsibility of upholding the Constitution and the organic laws of the Republic, and he should not himself violate them. He is the custodian of the rights and liberties of the citizen and should not allow those rights and privileges to be trailed in the dust. He should exercise patience and forbearance and having great powers, should be especially slow to exercise same." In *re James E. Johnson*, Attorney-at-law, 6 LLR 47, 49 (1937).

Magistrate Brown clearly violated both the laws and the fundamental rights of Darty as provided in the Constitution provision cited supra, a right which a judge is under legal and professional obligation to protect at all times. Judicial Canon Thirty-Nine (39) provides that "The penalty for violation of any provision of the Judicial Canon shall be either fine, suspension, impeachment, and/ or prosecution in a court of law according to the gravity of the violation." Magistrate Brown having violated the due process right of Darty Kaba and [the] Judicial Canons governing judges' conduct in administering justice and the court, the Judicial Inquiry Commission was right to recommend that he be suspended for three (3) months without pay."

Further, the amicus curiae, having analyzed the issue, as stated above, and set out their position on the issue, they then enumerated a number of observations, from which they drew conclusions and advanced recommendations, which, for the benefit of this Opinion, we quote herein below:

"The Amici Curiae have duly researched the facts and law controlling in this particular instance. In the minds of the Amici Curiae, considering the facts and circumstances, together with the documentary evidence produced and discovered, we present the following conclusions:

1. That Magistrate Brown has breached his professional and judicial duty by abuse of discretion provided for in Judicial Canon Thirty-Five (35); and
2. That Magistrate Brown has also breached judicial duty to protect the Constitution as provided for in Judicial Canon Nine and that Magistrate Brown also violated Darty Kaba's due process right as provided for in the Constitution of Liberia {1986), Chapter III, Article 20 (a).

We are of the view that the foregoing conclusion reached by the Judicial Inquiry Committee was proper, except that we disagree with the recommendation for serving of warning to Darty Kaba as he is not a judicial officer and therefore was never a subject of the judicial inquiry.

RECOMMENDATION:

The facts and circumstances of this case are clearly established. There is no question on the decision and recommendation of the Judicial Inquiry committee to have the Magistrate reprimanded for his breach of professional and legal duty to deter others and keep the sanity and sacredness of the courts. The Judicial Inquiry Commission's [recommendation] to suspend Magistrate Brown should be upheld." For his part, the respondent associate magistrate filed no further documents with the Court, other than what he had earlier filed with the Commission prior to the Commission commencing the investigation or the matter and taking evidence from the parties. Additionally, we note further that at the call of the case, the Court enquired of the respondent magistrate as to whether he was represented by counsel or desired to be represented by counsel. His response to the Court was that he did not desire that counsel should represent him and that instead that his preference was to represent himself as he did not have much to say in regard to the matter. He further informed the Court that he also did not wish to advance any defense of himself or of his action, but rather that he regretted his actions, craved the mercy of the Court, prayed that the Court will forgive him and temper justice with mercy, and promised that he will not indulge in such or similar conduct in the future.

In regard to the issue identified by the amicus curiae, they reiterated their position and their prayer that the recommendation of the Judicial Inquiry Commission be upheld and that the respondent associate magistrate be suspended for a period of three months. Because we are in accord with the position taken by the Judicial Inquiry Commission and the amicus curiae that the case presents a single issue and we agree with the general analysis made by them with respect to the said issue, we herewith adopt, with modification, certain segments of the JIC's findings and recommendations which we shall allude to later in this Opinion, as well as the relevant segments of the analysis of the amicus curiae, quoted above, to form an integral part of this Opinion and, as such, to constitute the view and opinion of the Court.

Notwithstanding, because this Court believes that the matter is befitting and deserving of further scrutiny and analysis, particularly as regard the acts and behavior of the respondent associate magistrate and disclosures from the records as certain events that occurred in the magisterial court, and especially as they bear on the recommendations of the JIC, the Court deems it prudent to make some additional comments on the matter.

Firstly, the Court notes the plea for mercy and the prayer that the Court temper justice with mercy, made by the respondent associate magistrate when he appeared before this Court for the hearing of the JIC report. The Court wishes to observe in that regard that although the respondent associate magistrate informed the Court that he was not contesting the allegations made against him by the complainant relative to his conduct and the injustice which Darty Kaba had suffered as a result thereof, the respondent associate magistrate had taken the exact opposite position when he responded to the citation from the Judicial Inquiry Commission and when he appeared before that Body for the hearing of the matter. This about turn and the lack of any further contest by the respondent associate magistrate of the allegations made by the complainant, for whatever reason(s), leaves this Court with the impression and to the conclusion, as a matter of law, that the allegations made by the complainants are deemed admitted by the respondent associate magistrate, and as such considered by this Court as true.

[CITATIONS]

The Court wonders, if the respondent associate magistrate believed that he had committed a wrong against Darty Kaba, why he did not make the concession in his returns filed with the Judicial Inquiry Commission and when he appeared before that Body for the investigation of the complaint and the returns. Instead, the records reveal when appearing before the Commission the respondent associate magistrate stood his ground, asserting that he had committed no wrong, that he had acted to protect the dignity of the court, that it was Darty Kaba who had in fact created disturbance in the court, and that the order for the arrest of Darty Kaba, was predicated upon and for the contempt committed by Darty Kaba against the court and not for the reasons alleged by the complainant.

Our close inspection of the records certified to this Court has caused this Court to be more disposed to accepting the complainant's version of the events than that asserted by the respondent associate magistrate. Firstly, the associate magistrate does not deny that Darty Kaba appeared in his court and the time and on the date alleged by the complainant. He also does not deny that Darty Kaba brought with him a letter of excuse from his father, Attorney Morris Kaba, relating to a criminal matter in which the writer of the instrument should have made an appearance in court. The associate magistrate, however, denies that he told Darty Kaba that he would be arrested in the stead of his father since he, the associate magistrate, had intended to have Attorney Morris Kaba arrested and imprisoned. According to the respondent magistrate, Darty Kaba, upon delivering the letter, insisted that he be given a receipt and that when he was refused a receipt he began to display unruly and insulting conduct towards the court. It was only at that time, the associate magistrate insists, that he "was compelled and constrained to order the clerk to issue a writ of contempt of court on Darty Kaba for disturbing and obstructing the administration of justice and bringing the court to public ridicule", with the expectation that Darty, following his imprisonment at the Buchanan central prison, would thereafter be brought before the court to answer to the charge of contempt of the court.

The difficulty this Court has with the explanation of the events, as provided by the associate magistrate, is that although he states that Darty Kaba was arrested on the charge of contempt of court, as opposed to the complainant's version that Darty Kaba was arrested and imprisoned on the charge of "aiding and abetting", is that both the writ of arrest and the order for the release of Darty Kaba in the file of the magistrate court were tampered with, that is, in the space where the charge is supposed to have been stated in both instruments, there had been erasure of what seemingly was the original charge and a new charge placed in its stead.

We can reach no conclusion as to the coincidence on both instruments except that the original charge had been erased and a new charge stated on the instruments so as to have the documents conform to the allegations made by the associate magistrate that Darty Kaba had been arrested on the charge of contempt of court rather than on the charge of aiding and abetting. Had the erasure been on only one document, we could have viewed it as an error and not a deliberate act to cover up or change what the associate magistrate had done. But with the same erasure occurring on the two instruments, a strong suspicion is created 'that the acts were done deliberately to disguise what had really occurred and to

have the instruments conform to the version advanced by the associate magistrate. [CITATIONS]

Why would the magisterial court, or the office of the associate magistrate, go to the length of altering and falsifying the records of the court if the allegations made by the associate magistrate as to the events that occurred in his court were true. The tampering with the instrument and the apparent falsification of the documents lend credence to the truthfulness of the allegations made by the complainant and to the untruthfulness of the allegations made by the associate magistrate.

This Court cannot even fully describe how utterly disturbed it is by the altering of the court's instruments, either by the associate or by someone in his office, whether on his instructions or not, for such act brings into question and focus the manner in which our lower courts are conducting themselves and the proceedings had before them. We are even more greatly concerned with how by such conduct the citizens and residents of this nation may be exposed not only to injustice but by what seem to be the practice of the court in seeking to cover up the injustice. It is this kind of conduct that by our lower courts that bring disrepute to the Judiciary and to our legal system in general. Judicial Canon 8 state that: "Courts exist to promote justice, thus to serve the public interest. Their is the administration of justice which they must do with speed and care. Every judge should at all times be alert in his rulings and in the conduct of the business of the court, so far as he can." Similarly, Judicial Canon 9 states that: "It is the duty of all judges in the Republic to uphold and support the Constitution and the laws of the land, in so doing, they, as custodian of the Constitution, should fearlessly observe and apply fundamental rights and guarantees." We are convinced from the facts in the instant case that the respondent associate magistrate violated both these core canons governing the conduct of judges.

A rather similar imposition is placed upon the judge by canon 10. It states: "A judge should be temperate, attentive, impartial, and since he is to administer the law, interpret it and apply it to the facts, he should be studious of the principles of law and diligent in endeavoring to ascertain the facts." We see nothing in the instant case indicative of the judge's demonstration of compliance with the provision of this Judicial Canon. Indeed, even assuming that the writ of arrest issued was for contempt of the court, it is the cardinal rule in this jurisdiction, directed by both the Constitution and the statute and case Jaws of the nation, in all such cases a person must be given the opportunity of having his day in court. [CITATIONS] This right was not accorded to Darty Kaba before he was sent to prison.

We cannot continue to tolerate such conduct and must therefore warn that this Court, in preserving the sanctity of the institution, the administration of justice and the legal system, as it is duty bound to do both under the Constitution and the statutory laws, will not hesitate to mete out increasingly more severe penalties and punishments on judges who are found to be not merely transgressing the law and inflicting damage to the Cafe of our justice system and disgrace to the Judiciary, but also in the process exacting and abusing the offices held by them and perpetrating injustice upon persons appearing before, cited by or otherwise in some form of contact with their courts.

In the instant case, the complainant alleged, and the non-contest of the those allegations by the respondent associate magistrate lead to the conclusion that Darty Kaba was in fact arrested on the orders of the respondent associate magistrate, that he was in fact hand cuffed and placed on the prison

bench for more than four hours; that the basis for his arrest was that he had delivered a letter of excuse for his father who should have appeared before the associate magistrate on that date Darty had delivered the letter; that Darty was arrested in the stead of his father, thus transferring the offense from the father to the son, for no justifiable legal reason; that Darty was imprisoned at the Bassa Central Prison on an offense that should have been for his father and regarding which he had no knowledge; and that Darty was molested whilst in prison and threatened with sodomy by certain of the prison inmates. As we noted earlier, the erasures on both the writ of arrest and the release form evidence clearly to us that Darty Kaba was not arrested because he misbehaved in the court room and disturbed the peace and dignity of the court by the use of profane words or that the unprovoked attitude and action of Darty Kaba caused the court to be paralyzed so that the court could not hear cases assigned for the day until the 24th of December 2013. To the contrary, it appears -to us that even if there was a displayed by Darty Kaba of disturbance in the court, it was because the respondent associate magistrate had determined to have Darty Kaba arrested and imprisonment in the stead of his father. In such environment, a person would resist, even if the resistance is unjustified in the sense that it displayed disrespect to the order of the court.

In the circumstances revealed by the records, we view the acts of the associate magistrate as highly reprehensible and this Court is not prepared to provide any positive sanction to them. The halls of justice were designed to protect the people, whoever they are, and not be a place for the perpetration of injustice. Clearly, the acts of the respondent associate magistrate are littered with abuse of the law and of the rights of Darty Kaba. Firstly, Darty Kaba was charged with the commission of any offense regarding which neither the State nor any other person had complained to the associate magistrate of or about. Secondly, although Darty was without knowledge of acts which the associated magistrate intended to his father with, yet those acts were transferred to him, rendering him a victim of acts to which he was no party. Thirdly, he was effectively denied all of the due process, including the right to counsel and to a fair and impartial before being deprived of his liberty, guaranteed by the Constitution and statutory laws of Liberia. We need not overemphasize the severity of the pain, and the possible trauma, which Darty Kaba was forced to undergo as a result of the abuse committed by the respondent associate magistrate. What we note is that they were severe enough to warrant the strong discipline of the respondent magistrate. Judicial Canon No. 35 states that: "A judge should be subject to disciplinary action for the wanton and reckless abuse of discretion which become violative of the Constitution, statute and laws." See also *In re Complaint Against Emery Paye*, Supreme Court Opinion, October Term, 2012.

Accordingly, this Court endorses the findings and the recommendations of the Judicial Inquiry Commission but with two modifications: (a) that the severity of the action by the magistrate, the gravity of the abuse, and the utter disregard for the law, as well as to ensure that such similar conduct is deterred, the penalty recommended by the Judicial Inquiry Commission be increased from three (3) to six (6) month's suspension of the respondent associate magistrate, with no' salary or other benefits or entitlements for the entire period of the suspension; and (b) that Darty Kaba not be warned as this Court

has accepted his version of the events to be true and as the magistrate has himself made that concession. The Clerk of this Court is hereby ordered to send a mandate to the lower court informing the court to result jurisdiction over the case and to have the respondent magistrate informed of the decision of this Court and authorizing the enforcement of this decision without delay. Costs are assessed against the respondent associate magistrate.

Counsellors Tiawan S. Gongloe and T. Negbalee Warner appeared as Amici Curiae for the Court. Respondent Magistrate T. Richard Brown appeared pro se for himself.