

The National Elections Commission by and thru its Chairman, Cllr. Jerome G. Korkoya of
Monrovia, Liberia, Informant and **Varney Gbotonambi Sherman**, Co-Informant Versus **Alhaji Dr.**
Fodee Kromah of Cape Mount County, Republic of Liberia, Respondent

LRSC 11

BILL OF INFORMATION

JUDGMENT WITHOUT OPINION

When this case was called for hearing, Counsellor Joseph N. Bliidi appeared for the National Elections Commission (NEC). Counsellors G. Moses Paegar, J. Johnny Momoh, Golda A Bonah-Elliot, James G. Innis and Amara Sheriff appeared for Varney Gbotonambi Sherman. Counsellor Thompson Jargba appeared for Alhaji Dr. Fodee Kromah.

Background

On December 20, 2014, Special Senatorial Elections were held throughout the fifteen counties in Liberia. Alhaji Dr. Fodee Kromah and Varney Gbotonambi Sherman were among the candidates that contested the senatorial election in Grand Cape Mount County. Alhaji Dr. Fodee Kromah ran on the ticket of the Congress for Democratic Change (CDC), while Varney Gbotonambi Sherman ran on the ticket of the Unity Party (UP).

According to the results from the Special Senatorial Elections held in Grand Cape Mount County, Varney Gbotonambi Sherman won 61.7% of the total valid votes counted. His closest opponent, Alhaji Dr. Fodee Kromah won 15.5% of the total valid votes. Consequently, on December 27, 2014, the NEC declared Varney Gbotonambi Sherman as the winner of the Special Senatorial Election in Grand Cape Mount County.

On December 29, 2014, Alhaji Dr. Fodee Kromah filed a complaint against the National Elections Commission and Varney Gbotonambi Sherman, the declared winner, alleging election irregularities and fraud. The complaint was filed before the Election Magistrate of Grand Cape Mount County. Alhaji Dr. Fodee Kromah subsequently filed a petition for the writ of prohibition to restrain and prevent the certification of Varney Gbotonambi Sherman as the winner of the Special Senatorial Election while the complaint, alleging election irregularities and fraud were still pending before the NEC undetermined. The Justice presiding in the Chambers of this Court ordered issued the alternative writ of prohibition along with a stay order to restrain and prohibit the certification of Varney Gbotonambi Sherman while the complaint was still pending undetermined.

The complaint filed by Alhaji Dr. Fodee Kromah was assigned for hearing before the Election Magistrate in Grand Cape Mount County on January 2, 2015, at 2:00 p.m. At the call of the case, the lawyers representing Varney Gbotonambi Sherman made an application before the Election Magistrate to dismiss the complaint. The application was heard and denied by the Election Magistrate and hearing into the complaint was ordered proceeded with. Thereafter, the Election Magistrate made a final ruling dismissing the complaint on the ground that there was no evidence to substantiate the complaint.

From the ruling of the Election Magistrate, Alhaji Dr. Fodee Kromah announced an appeal to the Board of Commissioners of the NEC. The Board of Commissioners of the NEC, after listening to the case, entered a ruling confirming the ruling of the Election Magistrate. Alhaji Dr. Fodee Kromah noted exception to the ruling of the NEC Board of Commissioners and announced an appeal to the Supreme Court, but he did not file a bill of exceptions as required by the Elections Law. This prompted the lawyers for Varney Gbotonambi Sherman to file a motion to dismiss the appeal before the NEC Board of Commissioners.

A notice for the hearing of the motion was served and returned served on Alhaji Dr. Fodee Kromah, through his counsel, Counsellor Thompson Jargba. But at the call of the case, neither he nor his counsel was present. The Board of Commissioners of NEC then granted the motion and dismissed the appeal announced by Alhaji Dr. Fodee Kromah.

On January 29, 2015, the NEC and Varney Gbotonambi Sherman (Informants) filed this joint bill of

information before this Court stating: a) that the investigation of the complaint of Alhaji Dr. Fodee Kromah (Respondent) with the NEC alleging election irregularities and fraud was concluded on January 28, 2015; b) that the said complaint was dismissed by the Election Magistrate for the failure of the Respondent to provide evidence to substantiate his claim; c) that the Respondent noted exception to the ruling of the Election Magistrate dismissing his complaint and announced an appeal to the Board of Commissioners of NEC; d) that after hearing the case the Board of Commissioners of the NEC confirmed the ruling of the Election Magistrate; e) that even though the Respondent announced an appeal from the ruling of the Board of Commissioners of the NEC to the Supreme Court, he did not file a bill of exceptions with the NEC as required by the Elections Law; and f) that the Board of Commissioners of the NEC subsequently dismissed the Respondent's appeal for his failure to proceed with the said appeal.

The Informants maintained that with the termination of the complaint filed by Respondent Alhaji Dr. Fodee Kromah and there being no appeal by him to the Supreme Court, the matter of the petition for a writ of prohibition filed by him before this Court has now become moot. The Informants therefore prayed this Court to order the lifting of the stay order which prohibited the certification of Co-Informant Varney Gbotonambi Sherman by Co-Informant the NEC as the winner of the Special Senatorial Election for Grand Cape Mount County.

To the bill of information, Respondent Alhaji Dr. Fodee Kromah, through his counsel, Thompson Jargba, filed a 3-count return interposing no objection. In the returns filed, Counsellor Jargba brought to the attention of this Court that his client had instructed him not to file a bill of exceptions in respect of his client's complaint filed with the NEC growing out of the December 20, 2014, Special Senatorial Election due to numerous appeals made to his client by "eminent citizens, elders, chiefs, friends, family and supporters" of Grand Cape Mount County not to pursue the case.

At the call of the case before us for argument, Cllr. Thompson Jargba reiterated his client's position contained in the returns filed that he interposed no objection to the bill of information.

WHEREFORE, and in view of the foregoing, it is hereby

ADJUDGED:

That the position taken by the Respondent, Alhaji Dr. Fodee Kromah by not filing a bill of exceptions in respect of the final ruling entered by the Board of Commissioners of the NEC, constituting an abandonment of the appeal, the NEC was correct in dismissing the said appeal, which action formed the premise of the bill of information. Further, that Respondent Alhaji Dr. Fodee Kromah's non-objection to the bill of information and his prayer to have the said bill of information granted are tantamount to a withdrawal of the petition for the writ of prohibition the Respondent filed against the certification of Varney Gbotonambi Sherman, the declared winner of the senatorial election of Grand Cape Mount County. Consequently, the Informants' bill of information is hereby granted.

The alternative writ of prohibition issued prohibiting and preventing Varney Gbotonambi Sherman, the declared winner of the Special Senatorial Elections for Grand Cape Mount County is ordered quashed, the preemptory writ prayed for denied and the stay order imposed on the NEC prohibiting the certification of Varney Gbotonambi Sherman, the declared Senator-Elect for Grand Cape Mount County is lifted. He is ordered certificated forthwith with full benefits and emoluments.

The Clerk of this Court is ordered to send a mandate to the National Elections Commission to give effect to this judgment. It is so ordered.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE SUPREME COURT OF LIBERIA
THIS 10TH DAY OF FEBRUARY, A.D. 2015.

[Please see pdf file for signatures]