

National Elections Commission (NEC) of the Republic of Liberia, by and Through its Acting Chairperson, **Cllr. Sarah M. Jegede-Toe**, INFORMANT AND **Jim Womba Tornonlah** of the People's Unification Party, of Margibi County, Republic of Liberia, CO-INFORMANT VERSUS **National Patriotic Party (NPP)**, represented by its National Secretary, **Andrew Peters** of the City of Monrovia, County of Montserrado, Liberia, RESPONDENT

LRSC 19

BILL OF INFORMATION

Heard: March 24 and 26, A. D. 2015 Decided: April 7, A. D. 2015

MR. JUSTICE JA'NEH delivered the Opinion of the Court.

According to the records certified to this Court, the National Elections Commission (NEC) and Jim Womba Tornonlah of the People's Unification Party (PUP), as informants in these proceedings, on March 19, A. D. 2015, filed a Bill of Information with the Clerk of the Supreme Court of Liberia. In the seven (7) count Bill of Information, the informants averred as quoted hereunder to wit:

"And now come the National Elections Commission and Jim Womba Tornonlah and beg leave to inform this Honorable Court, as follows:

1. That the Writ of Prohibition was issued against informants herein restraining and prohibiting the certification of Co-informant Jim "Womba Tornonlah as the winner of the 2014 Special Senatorial Election for Margibi County. In its petition for the Writ of Prohibition, respondent stated it had filed a complaint against the result of the 2014 election for Margibi County, and that said complaint was pending with Co-informant National Elections Commission, unresolved.
2. That as a result of the issuance of the Writ of Prohibition, Co-informant Jim Womba Tornonlah was never certificated.
3. That after the issuance of the Writ of Prohibition, the Board of Commissioners of Co-Informant National Elections Commission, on February 3, 2015, rendered final ruling on the complaint filed by respondent. In said ruling, the Board confirmed and affirmed the hearing officer's ruling which denied and dismissed respondent's complaint. Respondent orally excepted to the Board's ruling, and announced an appeal to this Honorable Court.
4. That under the law controlling, respondent was required to perfect its appeal by filing before this Honorable Court a Bill of Exceptions within seven (7) days as of the date of the Board's February 3, 2015 ruling. For reliance, see: Article 83(c) of the Constitution of Liberia and Section 6.7 of the New Elections Law.
5. That as additional requirement for perfection of its appeal, respondent was required to tender a recognizance bond in Liberian Dollars to the value of US\$3,000.00. For reliance, see: Section 6.8(b) of the New Elections Law.
6. That Co-informant National Elections Commission's investigation of respondent's complaint was concluded on March 18, 2015, when the Board of Commissioners of Co-informant National Elections Commission - after hearing Mr. Tornonlah's motion to dismiss appeal, in which respondent's counsel conceded to the legal soundness of said motion, rendered final ruling dismissing respondent's appeal for failure to perfect. Your Honours are respectfully requested to take judicial notice of the March 18, 2015 ruling of the Board of Commissioners of Co-informant National Elections Commission attached hereto in bulk as Exhibit 1, to all form integral part of this Bill of Information.

7. That with Co-informant National Elections Commission's final determination of respondent's complaint and dismissal of its announced appeal for failure to perfect said appeal, informants say that the matter of the writ of prohibition has become moot and, accordingly, the prohibition and restraint against the certification of Co-informant Jim Womba Tornonlah should be lifted, and Informant National Elections Commission allowed to issue the certificate of election to Co-informant Jim Womba Tornonlah.

WHEREFORE AND IN VIEW OF THE FOREGOING, Informants pray Your Honors for a mandate lifting the stay order which prohibited Informant, National Elections Commission from certifying Co-informant, Jim Womba Tornonlah as the winner of the 2014 Special Senatorial Election for Margibi County; and grant unto Informants any other and further relief as in such matters is made and provided by law."

Upon being duly notified by the Clerk of the filing of the Bill of Information, hereinabove quoted, the Supreme Court, on Tuesday, March 24, A.D. 2015, called for a hearing thereof. All the parties to the original petition for Writ of Prohibition, from which this bill of information grew, were cited.

We must remark here, in passing, that counsel for Professor Ansu D. Sonii of the Congress for Democratic Change, (CDC), who also filed a complaint against the elections results, appeared during the hearing of the Bill of Information. Counsel brought to the attention of this Court that though Professor Sonii and his party were dissatisfied with the dismissal of their complaint for lack of merit, they elected, nevertheless, not to further pursue the matter.

Counsellor Yamie Quiqui Gbeisay, Sr., appearing for Professor D. Ansu Sonii of the Congress for Democratic Change, (CDC), by leave of Court, made the following submission on the minutes of Court:

"At this stage, one of counsels for Co-respondent Professor D. Ansu Sonii says that Co-respondent excepted to the National Elections Commission Is ruling and announced an appeal to the Supreme Court of Liberia, but did not file a Bill of Exceptions which presupposes that there is no matter before this Court. Counsel therefore prays Your Honours that with or without serving him a copy of the Bill of Information, Your Honours may proceed in keeping with law and have the matter abated. And so prays and submits."

However, Counsellor Saymah Syrenius Cephus, one of counsels representing Co-Respondent National Patriotic Party (NPP), with Court's permission, spread on the minutes of Court the following submission:

1. The National Patriotic Party (NPP) begs leave of Court to inform Your Honours as follows:

Information filed with this Court, served and returned served with the NPP as in keeping with law, and therefore the NPP says the non-service of the Bill of Information inarguably deprives the NPP of the right of due process;

2. The NPP says and submits that a Bill of Information is a special proceeding which is always accompanied by a writ of summons served on the adversary party requesting him to file his responsive pleading in a stated period. In this case, there is no evidence of service of the Bill of Information, and therefore the NPP prays Court not to entertain this Bill of Information until the proper procedure is put in place in keeping with the law. The NPP so prays. And respectfully submits."

Responding to the aforestated submission made by Counsellor Saymah Syrenius Cephus, one of counsels for the Informants, Counsellor Joseph N. Bliidi, stated substantially that the Informants did not see the compelling need for such a service for reason that lawyer representing Co-respondent National Patriotic Party, (NPP), participated in the hearing had before the Board of Commissioners of the National Elections Commission; that at that hearing, NPP's counsel had conceded to the legal soundness of the motion to dismiss the appeal announced against the declaration of Co-informant Jim Womba Tornonlah of the People's Unification Party, (PUP) as the winner of the December 20, A. D. 2014, Special Senatorial Elections for Margibi County; that NPP's lawyer having so conceded, and given that the Motion to Dismiss under the circumstance was no longer a subject of any factual or legal contest, informants' counsel therefore did not see the necessity for service of any further pleading on Co-respondent NPP; that the instant Bill of Information was simply a natural consequence intended to complete the process of moving

the Supreme Court to quash its order, heretofore issued, staying the certification of Co-respondent Jim Womba Tornonlah.

The Supreme Court en banc disagreed with this reason, and in a short ruling, ordered the Informants as follows:

"The submissions made by the respondents are hereby noted. The informants are hereby ordered to work along with the Clerk of this Court and have the Bill of Information served on the counsel for Co-respondent NPP on today, Tuesday, March 24, A. D. 2015. The counsel for Co-respondent NPP is required to have his Returns to the Bill of Information filed before this Court on or before tomorrow, March 25, 2015. Meanwhile, the hearing of this matter is postponed to Thursday, March 26, 2015, at the hour of 1:00pm. And it is so ordered."

Accordingly, a copy of the Bill of Information was served on Co-respondent National Patriotic Party, (NPP), on Wednesday, March 25, A. D. 2015. In turn, Counsellors Saymah Syrenius Cephus and James N. Kumeh filed an eight-count Returns to the Bill of Information, raising therein what were clearly frivolous and unmeritorious issues. This Court had to suspend passing on the Bill of Information in order to consider the issues raised in the Returns. Because of the conduct exhibited by these two members of the Supreme Court Bar, Counsellors Saymah Syrenius Cephus and James N. Kumeh and the conclusions reached by the Supreme Court in this matter, we shall quote the said Returns in its entirety later on in this Opinion.

When the Supreme Court reconvened for the hearing of the Bill of Information as well as the Returns filed thereto, Counsellor Saymah Syrenius Cephus informed the Court that he was at this stage conceding and praying the Court to grant the Bill of Information. Counsellor Cephus claimed that he was totally unaware that Co-informant Jim Womba Tornonlah of the People's Unification Party (PUP) had filed a motion before the National Elections Commission (NEC) seeking dismissal of his client's (Co-respondent National Patriotic Party's) appeal and that the National Patriotic Party (NPP) through its lawyer had duly conceded the legal and factual soundness of the said motion. Counsellor Cephus also contended that the issues raised in the Returns as well as the conduct exhibited by him and his colleague, Counsellor Kumeh, were caused by the Informants' failure to serve on counsels the records of the proceedings had before the National Elections Commission, (NEC) at which time the motion to dismiss NPP's appeal, not having been contested, was dismissed by the Board of Commissioners of the National Elections Commission, (NEC).

Two issues are determinative of the contentions contained in the Bill of Information, the Returns filed by Co-respondent National Patriotic Party (NPP) as well as NPP's submission conceding the truthfulness and legal sufficiency of the averments contained in the Bill of Information.

Was the conduct exhibited by counsels for Co-respondent in these proceedings calculated to baffle, delay, frustrate and belittle the supreme court in the administration of justice as to warrant attaching the lawyers in contempt?

Whether under the facts and circumstances narrated, a Bill of Information will lie?

We will traverse these issues in the reverse order.

In order for a Bill of Information to be granted, this Court has repeated said literally without count that the matter forming the basis of the information must have been pending before the Court or decided by it; that there must be an act tending to usurp the province of the Court; that there must exist some irregularities or obstruction in the execution of the Supreme Court's mandate; or that there must have been a refusal to carry out the Supreme Court's mandate. *Ahmadu v. Sirleaf, III and Bartu Dorley, Informants v. Yessim EI-Bim, John Ghrib, Nashat Eid, Shouki Edi and Dilip Vassani, Respondent, Supreme Court Opinion, March Term 2013*; *Liberia Aggregate Corporation v. Taylor et al.*, 35 LLR 3, 8 (1988); *Massaquoi-Fahnbulleh v. Urey and Massaquoi*, 25 LLR, 432,435-6, 1977); *Barbour-Tarpeh v. Dennis*, 25 LLR 468, 470(1977); *Kromah v. Badio and Hill*, 34 LLR 85, 86 (1986); *Butler-Abdullah v. Pearson et al.*, 36 LLR 592, 597-8 (1989); *Jawhary v. Jones*, 38 LLR 584, 593-4 (1998).

The Bill of Information, in the instant matter, seeks to inform this Court substantially as follows: that Co-informant National Elections Commission, NEC, in obedience to, the mandate of the Supreme Court issued on February 17, A. D. 2015, conducted investigations into complaints, including that of the National Patriotic Party, NPP; that Co-informant National Elections Commission entered a ruling dismissing Respondent NPP's complaint; that from this ruling, Co-respondent NPP announced an appeal to the Honourable Supreme Court of Liberia; that Co-informant National Elections Commission, acting on a motion, subsequently dismissed Co-respondent NPP's appeal on account of NPP's failure to perfect said appeal; that there was no longer any complaint before Co-informant National Elections Commission's certified election result of the December 20, A. D. 2014 Special Senatorial Election for Margibi County, declaring Co-informant Jim Womba Tornonlah of the People's Unification Party, (PUP), as the winner; that in view thereof, the Informants were seeking the lifting of the Supreme Court's stay order to permit Co-informant National Elections Commission to proceed to certificate Co-informant Jim Womba Tornonlah of the People's Unification Party (PUP) as senator; that in the face of the stay order, and notwithstanding the non-pendency of any complaint against the final election results of Margibi County, Co-informant National Elections Commission, (NEC), recognized that it was without the authority to certificate Co-informant Jim Womba Tornonlah of the People's Unification Party (PUP) as senator, while the Supreme Court's stay was in effect. Count seven (7) of the Bill of Information, which succinctly captures this point, states:

"That with Co-informant National Elections Commission's final determination of Respondent's complaint and dismissal of its announced appeal for failure to perfect said appeal, Informants say that the matter of the writ of prohibition has become moot and accordingly, the prohibition and restraint against the certification of co-informant Jim Womba Tornonlah should be lifted and Co-informant National Elections Commission [be] allowed to issue the certificate of election to Co-informant Jim Womba Tornonlah."

It is worth noting here that the Supreme Court acting on a number of petitions for writ of Prohibition which the Court consolidated, stated in its Opinion issued on February 17, A. D. 2015, as follows:

"We state here unequivocally that in all elections for public offices where the results announced by the [National Elections] Commission are challenged and contested by a losing contestant or a political party fielding such contestant, and a complaint has been filed with the National Elections Commission in conformity with and pursuant to Article 83 (c) of the Constitution, and complaints remained undetermined by the [National Elections] Commission or an appeal has been taken from the determination or decision of the Commission on the complaint, the [National Elections] Commission cannot and is without the authority to proceed and to certificate the declared winning candidate while the matter remained undetermined. Any such certification would be illegal and hence of no legal effect. In such a case, the certificate of election issued by the [National Elections] Commission, not being valid, cannot form a basis for the seating of the declared winning candidate, and the said candidate can therefore not be seated as a senator unless and until the matter is finally resolved by the [National Elections] Commission and by the Supreme Court in the event an appeal is taken thereto."

See: The Congress for Democratic Change (CDC) and Professor Ansu D. Sonii, et al. v. The National Elections Commission (NEC), et al., Supreme Court Opinion, October Term, A. D. 2014.

It is in this regard that the informants, the National Elections Commission (NEC) and Jim Womba Tornonlah of the People's Unification Party, (PUP), taking cognizance of the Supreme Court's ruling, decided, and correctly so, to inform the Supreme Court that the complaint filed by the National Patriotic Party (NPP) was investigated and ruling rendered by the National Elections Commission (NEC); that Co-informant Jim Womba Tornonlah of the PUP subsequently filed a motion to dismiss Co-respondent NPP's appeal; that said motion was conceded by Co-respondent NPP and therefore granted by Co-informant National Elections Commission (NEC).

We have carefully reviewed the averments contained in the Bill of Information and have determined that sufficient factual and legal reasons exist to grant it. As earlier observed in this Opinion, at the hearing of the motion to dismiss the NPP's appeal on March 18, A. D. 2015, counsel for NPP, Attorney-At-Law,

Kpoto Gizzie, conceded that the National Patriotic Party, (NPP) did not comply requirements of the applicable appeal statute. We here quote his exact words:

"At this stage, one of counsels for Respondent says that in Movant's Motion to dismiss this Appeal, the Movant contends that on February 3, 2015, the case as mentioned supra was ruled into by this Board of Commissioners. Consistent with Section 6.7 of the Elections Law which provides that an appeal be perfected from the Board of Commissioners to the Honourable Supreme Court of the Republic of Liberia and that the appeal process itself was not perfected, Counsel for the Respondent says that in the face of these and the Movant's Motion, Counsel says that it submits that it has no contest to offer."

We here observe that on March 18, A. D. 2015, the Board of Commissioners of the National Elections Commission, (NEC), heard the motion to dismiss NPP's appeal. In the four count motion to dismiss the appeal announced by the National Patriotic Party (NPP), Co-informant Jim W. Tornonlah substantially averred that on February 3, A. D. 2013, the Board of Commissioners, NEC, rendered its ruling stating therein "Appellant's appeal is hereby denied, The Hearing Officer 's ruling is confirmed and affirmed; and the Board's declaration of Mr. Jim Womba Tornonlah as the winner of the 2014 Special Senatorial Election for Margibi County is hereby confirmed and affirmed." We must remark further that Counsellor Theophilus Chapman Gould represented the National Patriotic Party (NPP) at the February 3, A. D. 2015, sitting when the NPP's appeal to the NEC's Board was heard. The Board of Commissioners ruled dismissing the NPP's appeal from the adverse ruling rendered by the Hearing/Election Magistrate for Margibi County on January 22, A. D. 2015.

The records transmitted to this Court indicate that (1) earlier, the Election Magistrate/Hearing in compliance with the by mandate of the Honourable Supreme Court of Liberia, conducted an investigation into the complaint of "Elections Irregularities" which was filed by the National Patriotic Party (NPP) but dismissed same for reason of being unmeritorious; (2) that the National Patriotic Party, (NPP), exercised the right of appeal sacrosanct under the Liberian Constitution and our statutory laws, through its legal representative, Counsellor Theophilus Chapman Gould, and announced an appeal to the Honourable Supreme Court of Liberia; (3) that by February 13, A. D. 2013, ten (10) days from the date on which the Board of Commissioners of the National Elections Commission (NEC) rendered its ruling denying the appeal by NPP, and from which ruling the NPP, on the same self -date of February 3, A. D. 2015, announced a n appeal to the Supreme Court, the NPP failed to filed its Bill of Exception and have same served on NEC; (4) that co-respondent National Patriotic Party having neglected and failed to perfect the appeal by the filing and the service of Bill of Exceptions within seven (7) day s as mandatory under section 6.7, and also having not filed "recognizance " for pay ment of costs as further required under section 6.8 (b) under the New Elections Law (1986) as amended, rendered NPP's appeal dismissible, as a matter of law;

(5) that co-informant Jim Womba Tornonlah filed a motion to dismiss the NPP's appeal before the Board of NEC, on February 13, 2015, (6) that the legal representative of the NPP, realizing the colossal derelict and incurable failure by the NPP to comply with the mandatory requirements for perfection of an appeal to the Honourable Supreme Court, conceded that the National Patriotic Party, (NPP) was no longer legally competent to contest the ruling entered by the NEC declaring Co-informant, Jim Womba Tornonlah, winner of the December 20, A.D. 2014 Special Senatorial Election for Margibi County.

There being no longer any pending contest, the Board of Commissioners of the National Elections Commission (NEC) granted the motion to dismiss the appeal. The ruling in substance states:

"The Board of [the National Elections Commission] hereby dismisses Respondent [NPP's] appeal, affirms and confirms its Ruling of January 27, 2015 that Mr. Jim Womba Tornonlah is the winner of the 2014 Special Senatorial Election for Margibi County held on December 20, 2014."

Clearly, without the Supreme Court lifting its stay order prohibiting the certification of Co-informant Jim Womba Tornonlah issued on February 17, A. D. 2015, the Commission was without authority to certificate Co-informant Jim Womba Tornonlah, even in the face of NEC's dismissal of the NPP and CDC's appeals for reason of the parties' failure to pursue their appeals to the Supreme Court. This recognition by the NEC prompted the filing of the Bill of Information jointly by the National

Elections Commission, NEC and Co-informant Jim Womba Toronlah of the People's Unification Party (PUP) before the Supreme Court. The Board of Commissioners' ruling was clear on this point:

"As to the Movant's other prayer that the Board should certificate Movant as the winner of the Special Senatorial Election for Margibi County held on December 20, 2014, the Board notes that the Honourable Supreme Court issued a Writ of Prohibition against the National Elections Commission and Movant, as respondents in that Prohibition proceeding. Until such time that the Board receives an order from the Honourable Supreme Court, which modifies or nullifies the Writ of Prohibition, the Board is without power or authority to issue the certification prayed for by Movant. However, through a bill of information, the Board shall have its counsel inform the Honourable Supreme Court of the status of the matter of the complaint filed by Respondents, and seek the appropriate mandate of the Honourable Supreme Court in the circumstances".

we are in perfect agreement with the Informants that a Bill of Information was the proper proceeding to inform the Supreme Court of their compliance with the mandate of the Court, by first informing the Court that investigation was conducted and a ruling made as mandated under this Court's Ruling of February 17, A. D., 2015, and that as the result, declaring Jim Womba Toronlah as the winner, and they were therefore respectfully praying the Honourable Supreme to certificate. Jim Womba Toronlah as the Winner of the Special Senatorial Election of Margibi County. This being the proper province of a Bill of Information, same is therefore granted for all intents and purposes. And we so hold.

We now direct our attention to the last issue demanding our consideration. That is, whether the conduct demonstrated by Counsellors Saymah Syrenius Cephus and James N. Kumeh, lawyers for Co-respondent National Patriotic Party/(NPP), was clearly designed to baffle, delay, frustrate the ends of justice and belittle the Supreme Court in the administration of justice, warrants attachment in contempt.

Recourse to the records reveals that in the face of the incontrovertible facts enumerated herein, the Supreme Court, on March 26, A. D. 2015, convened to hear the Bill of Information filed by the National Elections Commission, (NEC), and Jim Womba Toronlah of the People's Unification Party (PUPL which sought to achieve two basic objectives: (1) to bring to the attention of the Supreme Court material information regarding events which had transpired and affected this case ; and, (2) to further pray this Court, in the light of all that had transpired/ to lift the stay order contained in the Supreme Court's Judgment issued on February 17, A. D. 2015. That Judgment unequivocally prohibits the National Elections Commission from certifying any person as winner of public elections contest until any dispute thereto relating has been "finally resolved by the Commission and by the Supreme Court in the event an appeal is taken thereto".

At that hearing, Counsellors Saymah Syrenius Cephus and James N. Kumeh filed Returns to the Bill of Information, raising a number of contentions. Because of the conduct demonstrated by these two herein named Counsellors and the decision we have concluded in this case, we deem it imperative to quote the said Returns hereunder:

"AND NOW COMES RESPONDENT the National Patriotic Party by and thru its National Secretary, Andrew Peters and Richard Saah Gbollie praying Your Honours and this Honourable Court to deny and dismiss Informant's Bill of Information for the following legal and factual reasons as showeth to wit:

1. That as to count one (1) of Informant's Bill of Information, Respondent says and avers that this count should be dismissed, as same presents no traversable issue as the Respondent complaint filed against the result of the 2014 Special Senatorial Election for Margibi County is still pending with Co-informant National Elections Commission. Your Honours are requested to take judicial notice of the date the Writ of Prohibition was ordered issued by the Honourable Supreme Court of Liberia;

2. That as to count two (2) of Informant's Bill of Information, Respondent maintains that indeed the Writ of Prohibition was issued by the Honorable Supreme Court based on the Petition/Complaint filed by the Respondent as a result of Irregularities conducted by the Co-informant the National Elections Commission during the conduct of the 2014 Special Senatorial Election for Margibi County;

3. That as to Count three (3) of Informant's Bill of Information, Respondent contends that while the stay order issued by the Honorable Supreme Court of Liberia, was still in effect, the Co-informant National Elections Commission on February 3, 2015 allegedly rendered final ruling on the complaint filed by the Respondent, which act of the Co-informant was in violation of the stay order as the Writ of Prohibition grew out of the complaint filed by Respondent and that complaint could not have been investigated in the absence of lifting the stay order;

4. That as to count four (4) of Informant's Bill of Information, Respondent contends that the Investigation/hearing conducted by the Co-informant National Elections Commission was in violation of the writ of prohibition, as any hearing/investigation conducted by the Co-informant is void ab initio once the stay order was not lifted before conducting that investigation. Hence, the respondent cannot or will not be a part of any illegal process that tends to undermine the Rule of Law;

5. That as to Count five (5) of Informant's Bill of Information, Respondent maintains that it will not and cannot be a part to any illegal process in that while the writ of prohibition is still in effect, the Co-Informant National Election Commission/ could not have conducted an investigation, hence, Respondent could not have perfected an appeal as doing so would mean that the Respondent is a part of the illegal process;

6. That as to count six (6) of Informant's Bill of Information, Respondent says and avers that the motion to dismiss grew out of an illegal process and as such there are no records attached to Informant Bill of Information including (those showing) that the Respondent's counsel conceded to the legal soundness of said motion from which the Board of Commissioners of Co-Informant National Elections Commission on March 18, 2015 rendered Final Ruling dismissing the appeal. Hence this Count should be dismissed;

7. That as to count seven (7) of Informant's Bill of Information, Respondent says and avers that since February 17, 2015, the Honourable Supreme court of Liberia rendered Judgment in the case and a mandate was sent to the National Elections Commission directing them to proceed to effectuate the decision herein, in accordance with law, the Co-Informant National Elections Commission has never cited the parties for an investigation. Furthermore, the issue of perfecting an appeal to an illegal process should not be encouraged by this Honorable Court;

8. Further to count seven (7) above, Respondent maintains that Your Honours dismiss and deny the Bill of Information, order the Co-informant National Elections Commission to cite all of the parties for an investigation into the complaint filed by Respondent as the investigation conducted by the Co-informant National Elections Commission was void ab initio in the face of the writ of prohibition, as the outcome from that investigation is not binding..."

WHEREFORE AND IN VIEW OF THE FOREGOING FACTS AND CIRCUMSTANCES, Respondent prays Your Honours and this Honorable Court to deny and dismiss Informant's Bill of Information, order the Co-informant National Elections Commission to cite all of the parties for an investigation into the complaint filed by Respondent as the Investigation conducted by Co-informant National Elections Commission was void ab initio in the face of the writ of prohibition, render unto the Respondent any and all further relief that Your Honours and this Honourable Court may deem just and legal in these premises. This respondent so prays".

To begin with, the Supreme Court has the constitutional and statutory duty to expeditiously, timely and inexpensively administer justice in the land. But the Returns filed by Counsellors Cephus and Kumeh, as quoted word for word hereinabove, was unarguably intended to delay and frustrate the administration of justice in a manner and form we have determined to be disingenuous, devious and hypocritical. The records from the National Elections Commission (NEC) clearly show that Co-respondent National Patriotic Party (NPP), having failed woefully to meet the mandatory requirements as a prerequisite to the hearing of its appeal by the Honourable Supreme Court of Liberia, the NPP no longer could contest the National Elections Commission's ruling of March 18, A. D. 2015. This is further evidenced by the concession, earlier referenced made by Attorney-At-Law, Kpoto Gizzie, to the effect that:

"in the face of these and the Movant's Motion, Counsel says that it submits that it has no contest to offer."

There being no legal justifiable contest, this Court is at loss as to what could have warranted the filing of a resistance to the granting of the Bill of Information and the informants' prayers to lift the stay order preventing the certification of Co-informant Jim Womba Tornonlah as the winner of the December 20, A. D. 2014 Special Senatorial Election for Margibi County. In our considered opinion, the conduct demonstrated by these two members of this Bar, Counsellor Cephus and Counsellor Kumeh, to raise legally groundless contentions at this point was evidently designed to obstruct the Supreme Court in the fair and timely administration of justice especially in an election matter, thereby undermining the clear intent envisaged under Article 83 (c) of the Liberian constitution.

Counsels for Co-respondent, NPP, having been given the opportunity to be served and to peruse the Bill of Information, filed Returns thereto which, to the mind of this Court, was based on mere mischief. The two lawyers elected to mislead the Supreme Court and engage in deliberate misrepresentations of what this Court had said in its Opinion and Judgment handed down on February 17, A. D. 2015, when it disposed of the consolidated petitions for a Writ of Prohibition. The misrepresentations and falsehoods conveyed by these two lawyers are clearly couched in counts 4, 5 and 6 of their Returns, herein after reproduced for reason of emphasis, which Returns they now pray this Court to withdraw :

"4. That as to count four (4) of informant's bill of information, respondent contends that the investigation/hearing conducted by the Co-informant National Elections Commission was in violation of the writ of prohibition, as any hearing/investigation conducted by the Co - informant is void ab initio once the stay order was not lifted before conducting that investigation. Hence, the respondent cannot or will not be a part of any illegal process that tends to undermine the rule of law ;

5. That as to count five (5) of informant's bill of information, respondent maintains that it will not and cannot be a part to any illegal process in that while the writ of prohibition is still in effect, the Co-informant National Elections Commission could not have conducted an investigation, hence, respondent could not have perfected an appeal as doing so would mean that the respondent is a part of the illegal process;

6. That as to count six (6) of informant's Bill of Information, respondent says and avers that the motion to dismiss grew out of an illegal process and as such there is no records attached to informant Bill of Information, including that the respondent's counsel conceded to the legal soundness of said motion from which the Board of Commissioners of co-informant National Elections Commission on March 18, 2015 rendered final ruling dismissing the appeal. Hence, this count should be dismissed."

The three (3) counts, herein above referenced, are cunningly shrouded deliberate misrepresentations and falsehoods by these two lawyers who stated in their returns that even where a trial had been held, same would be an illegal process, and therefore null and void, for reason that the stay order was not lifted. How absurd!

The Supreme Court Bench then thoroughly quizzed both Counsellors Cephus and Kumeh, particularly as to why in view of the submission made in the Bill of Information, counsels did not find it necessary to first authenticate the facts stated therein before filing their Returns. It was at this stage that Counsellor Cephus made the following submission on the minutes of Court:

"At this stage, one of counsels for the National Patriotic Party hereby withdraws its returns to the Bill of Information filed by the informants and concedes the argument therein contained. Counsel says this exercise follows a critical and careful review of the records from the National Elections Commission (NEC), which indicates that one of respondent's counsels had earlier conceded the argument proffered by the informants, but did not share the information with Co-respondent's counsel.

Counsel says that at the call of the case he made it clear to this court that as far as he is concerned, he did not receive any Bill of Information and therefore was not aware of the case. Hence, after a careful review of the records, counsel concedes all of the arguments proffered by the informants and craves Your Honours' indulgence that respondent's returns be withdrawn and that this Court will give the necessary instructions so that the National Elections Commission (NEC) can proceed with the certification of Co-informant [Jim Womba Tornonlah].

Counsel says that this request is made in good faith and that Your Honours will grant unto informants the necessary relief as requested. And so prays."

This submission made by counsels, in the view of this Court, not only was offensively belated, but one essentially shrouded in bad faith, deception and blaming game. The deceit and bad faith are magnified by the excuses put forth by Counsellor Cephus. Counsellor Cephus apparently justifying the conduct exhibited by him and his partner, Counsellor Kumeh, on the failure of his colleague lawyer's and legal representative's of the National Patriotic Party, (NPP), to "share the information" in respect to the concession to the motion to dismiss NPP's appeal as far back as March 18, A. D. 2015. This is reckless. It is also an utter hypocrisy which further manifests little, if any respect, Counsellors Cephus and Kumeh attach to this High Court of the land.

In the instant case, Counsellors Cephus and Kumeh received the Bill of Information providing both counsels adequate details of the numerous events that had occurred and processes followed and undertaken at the National Elections commission. It is detailed in that Bill of Information that lawyers for the National Patriotic Party, (NPP), failed to perfect their appeal and as a result conceded that further contest was effectively terminated. Yet Counsellors Cephus and Kumeh exercised no diligence in ascertaining the veracity or otherwise of this material averment. One is tempted to ask whether these two lawyers did not owe a duty to this Court to carefully review and examine all the pertinent records and facts since they had not been involved in the case at the NEC prior to filing the groundless Returns? It is rather inexplicable and inexcusable that Counsellors of this Bar, after having insisted on being served the Bill of Information and having received a copy and read it prior to the filing of their returns, would fail to take due notice of events as narrated in the Bill of Information and exercise diligence in finding and examining records of the case before filing their returns.

As it is, we do not believe that Counsellors Sayma Syrenius Cephus and James N. Kumeh did not have knowledge of the facts contained in the Bill of Information when they first appeared before this Court. From a careful reading of this Court's Opinion and Judgment of February 17, 2015, and this we cannot overemphasize, the Supreme Court never ordered the National Elections Commission (NEC) to halt the conduct of investigation into complaints pending before that body. To the contrary, the primary purpose of the Supreme Court granting the consolidated petitions for the Writ of Prohibition was to disallow the National Elections Commission, NEC, from certificating the Commission's declared winner while complaints against elections results or manner of conduct were pending undetermined.

It would therefore be sheer absurdity to bar the National Elections Commission from issuing certificates to declared winners of public elections during pendency of complaints before the Commission undetermined, and yet at the same time, issue a stay order prohibiting investigation of pending and unresolved complaints, as Counsellors Cephus and Kumeh sought to deliberately misrepresent. Far to the contrary, it was and remains the order of this Court that the National Elections Commission (NEC) forthwith investigate and conclude matters of complaint before any certification can be properly made.

It is held in this jurisdiction that presentation to a court of a feigned issue or of fictitious or manufactured case is a contempt of court; hence, every lawyer in this country carries a peculiar duty and responsibility to refrain from this conduct. See: *In re C. Abayomi Cassell*, 14 LLR 400, 426 (1961); *Bowles v. United States*, 50 F.2d 848, 851; *United States v. Ford*, 9 F. 2d 990.

This Court has therefore determined that the despicable conduct of deception demonstrated by both Counsellors Saymah Syrenius Cephus and James N. Kumeh, should properly be punished as an abuse of their office as advocates of justice. Their conduct also violated Rules 24 and 31 of the Professional and Moral Codes for lawyers and their demonstrated behavior was calculated to belittle the Supreme Court in the administration of justice. Rule 24 states:

"A Lawyer's word of honour is sacred and his dealings in all matters, and on all occasions, should be such as [not] repugnant to his oath, and degrading to his profession". Under Rule 31, it is stipulated that:

"The lawyer must decline to conduct a civil case, or make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and having accepted retainer, it becomes his duty to insist upon the judgment of the court as to

the legal merits of his client's claim. His appearance in court should be deemed equivalent to an assertion on his honour that in his opinion his client's case is one proper for judicial determination."

Because the Supreme Court does not take lightly conduct by lawyers which has the propensity of lowering the image of the Court in the public eye, Counsellor Francis G. Doe, in the case *In re: Francis G. Doe, Sr.*, was suspended from the practice of law for a period of six (6) calendar months. The six (6) month suspension was triggered by his repeated failure to attend Court on citation.

In imposing this penalty, Mr. Justice Horace, speaking for the Court, without dissent, described contempt as "any act which tends to belittle, degrade, obstruct, interrupt, prevent, or embarrass the court in the administration of justice is contemptuous." 23 LLR 38, 42 (1974).

Also instructive is the case : *IN RE: Counsellor C. Abayomi Cassell*, recorded in 28 LLR, 107 (1979). According to Mr. Justice George Henries in that case, "[a]n attempt to prevent the execution of a lawful order, judgment, decree, or mandate of a court is such an interference with, or attempt to obstruct the due administration of justice, as to constitute a contempt." [Our Emphasis]. *Id.*, 126.

Let there be no mistake that the Supreme Court of Liberia has an abiding duty, and this Bench shall act to punish for contempt any false or deceptive practice which tends to reflect discredibly upon the Judiciary, or might tend to belittle it or its decision, or which might embarrass it in the performance of its duties, or which might show disrespect to it or its judges, or which might defy its authority.

The conduct, demeanor and deportment exhibited by Counsellors Saymah Syrenius Cephus and James N. Kumeh have been found contemptuous by this court. Where this Court has adjudged lawyer(s) guilty of contempt, as in the instant case, appropriate penalties have been imposed. The penalties have included reprimand, fine, prison term, suspension or disbarment from the practice of law, 17 directly or indirectly, within the bailiwick of the Republic of Liberia. *In re: c. Abayomi Cassell*, 14 LLR 400, 428 (1961); *In re C. L. Simpson*, 10 LLR 429, 436 (1961).

Counsellors Saymah Syrenius Cephus is hereby suspended from the practice of law within the bailiwick of the Republic of Liberia for three (3) calendar months, whilst Counsellor James N. Kumeh is suspended for a period of one (1) calendar month, effective immediately.

Though the two Counsellors represented and filed the Returns, the three month suspension of Counsellor Saymah Syrenius Cephus, as compared to Counsellor James N. Kumeh for one (1) month, is based on this Court's observance of Counsellor Saymah Syrenius Cephus' general disposition before this Court. As a lawyer who frequents this Court, Counsellor Saymah Syrenius Cephus' conduct and demeanor during his appearances before this Court often border on his lack of regard for the Court. If the Supreme Court must be accorded the honour and respect due it as the High Court of the land, such tendencies must be discouraged.

Wherefore, the bill of information is hereby granted and the stay order placed on the certification of Co-informant Jim Womba Toronlah of the People's Unification Party (PUP) as the winner of the Special Senatorial Election for Margibi County lifted.

Accordingly, the Board of Commissioners of the National Elections Commission, (NEC), is hereby ordered to certificate forthwith Jim Womba Toronlah as Senator of Margibi County. This decision also entitles Co-informant Jim Womba Toronlah to all the benefits and emoluments of a senator, as if he were seated on the second Monday, same being January 12, A. D. 2015. AND IT IS SO ORDERED.