

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS OCTOBER TERM, A.D. 2023

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE

Nimely J. Donyen, Independent Representative Candidate,)
Montserrado County District #2, Republic of Liberia)
.....Appellant)

Versus) APPEAL

Board of Commissioners, National Elections Commission (NEC),)
Monrovia, Liberia.....1st Appellee)

And)

Sekou S. Kanneh, Unity Party Representative Candidate and)
declared winner, Montserrado County District #2, Republic of)
Liberia.....2nd Appellee)

GROWING OUT OF THE CASE:)

Nimely J. Donyen, Independent Representative Candidate,)
Montserrado County District #2, Republic of Liberia)
.....Appellant)

Versus) APPEAL TO THE
BOC)

National Elections Commission (NEC) Montserrado County Staff)
Monrovia, Liberia.....1st Appellee)

And)

Sekou S. Kanneh, Unity Party Representative Candidate and)
declared winner, Montserrado County District #2, Republic of)
Liberia.....2nd Appellee)

Heard: January 4, 2024

Decided: January 12, 2024

MR. JUSTICE GBEISAY, SR. DELIVERED THE OPINION OF THE COURT

This case comes before this Court *en banc* for appellate review from the final ruling of the Board of Commissioners of the National Elections Commission (NEC), entered on December 19, 2023, dismissing the appellant’s appeal, growing out of a

complaint filed before the Hearing Officer of NEC, praying for a total recount of votes cast from the one hundred twenty-eight (128) polling places of the nineteen (19) voting precincts of Electoral District #2, Montserrado County, in the Presidential and Legislative Elections conducted in Montserrado County on October 10, 2023, and affirming the ruling of the Hearing Officer, Attorney S. Patterson Blamo.

The facts culled from the records in the case, transmitted to the Supreme Court, are summarized as follows:

Nine candidates participated in the October 10, 2023 Elections, seeking to be elected as representative for the House of Representatives, to represent Electoral District #2, Montserrado County. The nine contestants included the Appellant, Nimely J. Doryen, an Independent Candidate. The 2nd appellee, Sekou Kanneh, was declared winner for the representative seat for the District, with a total of 9,965 of the valid votes, while Appellant Nimely J. Donyen came second with a total of 9,432 votes. The appellant/complainant, Nimely J. Donyen, alleged that at the close of the October 10, 2023 polls in District #2, Montserrado County, votes obtained by each candidate at the 128 polling places were counted in the presence of the parties' agents/representatives and independent observers; that tally sheets were distributed with the party representatives and some placed on display at the voting centers, which results from the tally sheets showed that he, Appellant Nimely J. Donyen, an Independent Candidate, obtained a total of 9,724 votes, and that the 2nd appellee, Sekou S. Kanneh, obtained a total of 9,127 votes, which, by all accounts, made him, the appellant, the presumptive winner; that tally sheets from polling places where the appellant emerged as first or second, were provided to the appellant's representatives, and polling places where the appellant did not emerge in either of the categories mentioned

above and not therefore provided tally sheets, his representatives photographed the tally sheets placed on display at the polling centers; that all the records confirmed that the appellant did obtained a total of 9,724 votes, while the 2nd appellee obtained a total of 9,127 votes.

The appellant further alleged that between intervening times, that is, October 10, 2023 and October 11, 2023, when the original copies of the tally sheets were transported from the District #2 polling centers to the SKD Tally Center for recounting, the tally sheets were dramatically tampered with and altered, the elections results changed by giving the 2nd appellee, Sekou S. Kanneh, 9,565 votes over the appellant with 9,444 votes; that even with the forged results, the National Elections Commission (NEC) arbitrarily announced the results that were neither supported by the tally sheets nor the recounted ballots, thus giving the 2nd appellee a wide imaginary win of 9,965 votes over the appellant, who was given 9,443 votes; that upon the discovery of these alterations and rigged results announced by NEC, the appellant filed a complaint on October 18, 2023 with the NEC for investigation but later withdrew same and subsequently filed an amended complaint on October 23, 2023. We reproduce the appellant's amended complaint for the benefit of this Opinion:

“Candidate Nimely J. Donyan
Electoral District #2, Montserrado County
Liberia

October 23, 2023

The Hearing Officer
National Elections Commission (NEC)
Upper Montserrado County
Bentol City, Mont. Co., RL

Dear Hearing Officer:

I wish to withdraw my original complaint sent as quick notice and to replace it with this letter to which evidences are attached.

There are discrepancies and alterations in the numbering in favor of candidate Sekou Sarafody Kanneh and which have reduced my votes.

1. At Precinct 30219, Room # 2, there is an alteration of Sekou Sarafody Kanneh's number. It looks like the number of votes he obtained is 10 (ten), but was changed to 98 (ninety-eight). This alteration increased candidate Sekou Kanneh's votes with votes he did not obtain. I am therefore asking the National Elections Commission (NEC) for the original copy of the tally sheet of Precinct 30219, Room #2 and the recount of the ballots in Room #2 at Precinct 30219.
2. At Precinct 30225, Room #1, there is an alteration of candidate Sekou Sarafoday Kanneh's number of votes. It looks like the number he should obtain is 10 (ten), but this number was changed to 98 (ninety-eight). This alteration increased Sekou Kanneh's votes with votes he didn't obtain. I am therefore asking the National Elections Commission (NEC) for the original copy of the tally sheet of Room #1 of Precinct 30225, and for the recount of the ballots in Room #1 at Precinct 30225.
3. At Precinct 30228, Room #4, this is an alteration of my number. 103 (one hundred and three) was reduced to 25 (twenty-five). This alteration reduced my votes and has caused candidate Sekou Sarafoday Kanneh to have a numerical superiority over me. I am therefore asking the National Elections Commission (NEC) for the original copy of the tally sheet of Room #4 at Precinct 30228 and for the recount of the ballots of Room #4 at [Precinct 30228].

4. At another precinct, where the precinct code and the tally sheet are not legible, the number of votes were altered in favor of candidate Sekou Sarafoday Kanneh giving him 187 (one hundred and eighty-seven) votes.

5. From the tally sheet by tally sheet calculation, of the 128 (one twenty-eight) polling places in the 19 (nineteen) precincts of Electoral District Number Two, Montserrado County, Republic of Liberia, candidate Sekou Kanneh, despite all of the alterations done in his favor to increase his votes, has only a total of 9,581 votes. Despite the alterations on tally sheets done to reduce my total votes, I have a total of 9,317 votes. If the alteration had not taken place, candidate Sekou Sarafoday Kanneh would have had less than 9,400 (nine thousand four hundred) votes and I would have had more [than] 9,500 (nine thousand five hundred) votes.

This is why I am call for a total recount.

Thank you.

Very truly yours,

Nimely J. Donyen
Independent Candidate

In response to Independent Candidate Nimely Donyan's complaint, 2nd Appellee Sekou Sarafody Kanneh filed with the NEC his response as quoted below:

The Hearing Officer
National Elections Commission (NEC)
9th Street, Sinkor
Monrovia, Liberia

SUBJECT: RESPONSE TO CANDIDATE NIMLEY J. DONYEN'S COMPLAINT

Dear Mr. Hearing Officer:

I present my sincere compliments and acknowledge receipt of a purported complaint forwarded to me via WhatsApp and received on October 23, 2023. Sir, as you aware, the Elections Laws provides that notice by the National Elections Commission (NEC) to parties require to appear before it must be personally served on the parties and not through any other mean as in the instant case.

However, I write to deny all allegations contained in the Complainant Nimely J. Doyen's Complaint on grounds that they are unfounded, untrue and misleading. Specifically, I deny the Complainant's allegations that there were alterations of tally sheets or records of counts in the following precincts and polling places:

1. Precinct No. 30219 Polling Place # 2
(Note: The Precincts and polling place do not exist)
2. Precinct No. 30225 Pooling Place #1
3. Precinct No. 30228 Pooling Place #4

Besides, consistent with the Elections Law and Opinion of the Supreme Court of Liberia no hearing officer or elections magistrate can order a recount where the margin between the two contending candidates is more than fifty (50) votes. It may be of interest to know that the Honorable Supreme Court in the Case, Bhofal Chambers versus NEC et al, Supreme Court Opinion, March Term, A. D. 2015; David Saydee V. NEC & Roland Blalue, Supreme Court Opinion, March Term, 2012 held that automatic recount in a vote count of less than 50 votes between the winning candidate and the second candidate, a recount of all ballots in the district or county shall be conducted by the relevant Magistrate.

Moreover, as a hearing officer, you do not have the authority to order a recount in the absence of fraud as requested by the Complainant in these proceedings except by order of the Board of Commissioners of the National Commission (NEC) consistent with the Elections Law. In view of the above, I hereby request a dismissal of the unmeritorious complaint of the Complainant due to the lack of jurisdiction over the subject matter and the failure of the complainant to prove with particularity and specificity his allegations of fraud, if any.

Thanks for your understanding and consideration as I look forward to your timely actions.

Kind regards,

Sincerely yours,

Hon. Sekou Sarafody Kanneh

Representative-Elect

Predicated upon the complaint filed by the appellant/complainant and the response from the 2nd appellee/defendant, the Hearing Officer conducted a hearing into the matter. At the hearing, the complainant produced three witnesses, namely: Nimely J. Donyen, Aqua Carver and Christian S. Weah.

Appellant/Complainant Nimely J. Donyan, testified on his own behalf to the effect that on October 10, 2023, when voting had ended and votes count concluded, polling places in which he emerged first or second winner, he received the records of the counts, and that polling places where he did not emerge first or second winner, the records of the votes count were posted at the various polling centers, and that based on his records from the votes count, he won the election for Electoral District #2, Montserrado County; that at the tally center at the SKD Sports

Complex, they observed erasures on some of the tally sheets and that his votes obtained were altered and reduced while votes of the 2nd appellee, Sekou Kanneh, were increased.

The second witness, Acquoi Carvah testified, amongst other things that, on October 10, 2023, Appellant asked him and others to serve as supervisor and that in polling places where the Appellant emerged as first and second winner; he received the tally sheets from places where the appellant did not emerge as first or second winner; he recorded the votes from the tally sheets posted at various polling places. He further narrated that they went to the tally center at SKD and observed that some of the tally sheets had erasing marks; that he observed scratches on some of the tally sheets; and that following their observations, they photocopied the tally sheets and filed an official complaint against the Appellant.

The third Witness Christian S. Weah testified, amongst other things, that he was asked by the Appellant to serve as general supervisor of polling places in District #2, Montserrado County. He told the hearing that there were no qualms at the time of collection of the figures placed at various polling places. However, at the tally center at the SKD, they “noticed that the Appellant’s votes were decreased while Appellee Kanneh’s votes were increased in polling places where the Appellant obtained higher votes than Appellee Kanneh.

The 2nd appellee, Sekou Kanneh, for his part, produced two witnesses, Nuwork Kanneh and himself. 2nd appellee and Nuwork Kanneh testified and denied the complainant’s allegations of electoral irregularities and fraud. They were later cross-examined and thereafter admitted into evidence copies of the records of counts for voting precinct 30225, polling place #1, precinct 30228, polling place #4, and the list of all precincts in Electoral District #2, Montserrado County, thus resting in

toto with the production of both oral and documentary evidence.

The witnesses from both sides having testified and arguments had, the Hearing Officer, on December 6, 2023, ruled denying and dismissing the appellant's complaint stating that the complainant had not proven that by the enumerated allegations that his votes obtained were reduced and that irregularities and fraud occurred.

The appellant/complainant excepted to the ruling of the hearing officer and announced an appeal to the Board of Commissioners, National Elections Commission (NEC).

The Board of Commissioners, having entertained arguments *pro et con* and examined the evidence produced by the parties, ruled on December 19, 2023, denying the appellant's appeal and upholding the ruling of the Hearing Officer. We reproduce excerpts from the Board's Final Ruling.

"...taking administrative notice of the records, we observed that the tally of the votes cast during the October 10, 2023, polls in Montserrado County commenced at the SKD Sports Complex on October 11, 2023, and ended on October 16, 2023. Appellant's witness, Aqua Carver, stated that they were at the tally center and observed that some of the tally sheets had erasing marks and scratches, and that following their observations, they submitted same to the appellant who in turn filed complaint with the NEC. Yet, both the original complaint (filed October 18, 2023) and the amended complaint (filed October 23, 2023) do not contain any allegations about Emmanuel Tawaray, Catholic Temple, St. Francis, Bassa Town, and the other

areas appellant included in counts 1, 2 and 10 of his bill of exceptions.

During oral argument before us, counsel for the appellant repeated that the alleged alteration occurred at the SKD tally center. This means that appellant does not have any issue with the counting that took place at the polling place which results were documented on the records of the count. This Board says that while votes are counted at the polling places and recorded on the record of the count, the tally process is largely meant to collate the results that are reported from the various polling places via the records of the count. During the tally process which takes place after counting of votes at the polling places, the original record of the count for each polling place is taken out of the temper-evident envelope in the presence of party agents and independent observers, copied and distributed to everyone present. There is a projector for all to see as the figure on each of the original sheets is being read out loud and typed. If any party has a concern, he or she is allowed to raise said concern which is investigated and addressed during the tally. Appellant did not produce any tally sheet to show that the figures on it are different from those on an original record of the count that was copied and distributed to all at the tally center.

We are therefore in agreement with the ruling of the Hearing Officer that the appellant failed to substantiate his allegations of fraud and/or alterations of records of counts adverse to his interest during the October 10, 2023, Elections in Electoral District #2, Montserrado County.

Wherefore, in view of the foregoing, the judgment of the final ruling of the Hearing Officer, Attorney S. Patterson Blamo, is hereby confirmed and affirmed”.

The appellant, again being dissatisfied with the decision of the Board of Commissioners of the NEC, excepted thereto and appealed the BOC’s ruling to this Court of final resort.

In his bill of exceptions prepared against the Board of Commissioners, the appellant alleged the following errors to have been committed by the BOC: (1) That the Board erred in confirming the hearing officer’s ruling which deprived the appellant of his constitutional right to due process of law by the hearing officer’s refusal, to place a mark of identification and admit into evidence copies of the records of count; (2) That the BOC erred in confirming the hearing officer’s refusal to grant a subpoena deces tecum against the NEC to produce the tally sheets which the appellant said were questionable; (3) That the BOC erred in upholding the hearing officer’s decision sustaining an objection from the defendant preventing the placing of a mark of identification of the copy of the tally sheets of precincts 30225, rooms 1 and 2 of the New Hope Academy, precinct 30226, rooms 1, 2 and 3 of Fela Peace Academy, precinct 30228, rooms 3 and 4 of Calvary Temple, and two additional precincts whose code were illegible on grounds that they were photocopies; (4) that the BOC erred in sustaining the hearing officer’s denial and overruling the appellant’s application for a subpoena duces tecum directed to the NEC to produce the original copies of the tally sheets of the disputed precincts and rooms so as to substantiate his claims of fraud and irregularities; (5) that the BOC erred in upholding the hearing officer’s disregard of the Supreme Court’s standard setting and warning the

NEC that it is an extraordinary administrative agency that is expected to conduct the investigation in a fact finding manner and not to indulge into legal technicalities that would seem to cover-up errors made by its personnel in the conduct of elections; (6) that the BOC erred in upholding the hearing officer's error in declining consideration of the magnitude of the alterations alleged in the subject polling places that impacted negatively the result of the appellant; (7) that the BOC erred in sustaining the hearing officer's error when he prematurely aborted the trial/investigation and entered final ruling whereas the complainant's counsel had given notice to produce a rebuttal witness; that the hearing officer erred when he neglected and failed to provide the appellant the full minutes of the proceedings not until December 6, 2023, the date of the final ruling; and that the hearing officer misrepresented the facts in that, the complainant requested a recount in the disputed precincts and not the issue of recount of ballots which were never anticipated in the complainant's testimony.

From the arguments advanced by the parties before this Court, coupled with the averments contained in the appellant's bill of exceptions, one cardinal issue which presents itself for the determination of this case and that issue is: "whether or not there exists sufficient basis in law or the facts presented to warrant a recount of the ballots in precinct 30219 room #2, precinct 30225, room #1 and precinct 30228, room #4 of District #2, Montserrado County? We answer in the negative.

The following constitutes the basis for the conclusion which we have reached in the case. On October 23, 2023, the appellant in his amended complaint alleged discrepancies and alterations as follows:

- a. That at precinct 30219, Room #2, it looks like 2nd appellee Kanneh's number was changed from 10 to 98;
- b. That at Precinct 30225, Room #1, it looks like 2nd appellee Kanneh's number was changed from 10 to 98;
- c. That at precinct 30228, Room #4, his votes were altered from 103 votes to 25; and
- d. That at another precinct, where the precinct code and tally sheet are not eligible, the number of votes were altered in favor of 2nd appellee Kanneh giving him 187 votes.

In connection with the above allegations, we have carefully reviewed the records transmitted to the Court. The review of the said records reveals that the appellant woefully failed to prove his allegations of discrepancies and alteration of votes in **Precinct 30219 Room #2, Precinct 30225 Room # 1, and Precinct 30228 Room #4**. The law requires that allegations made must be proved by a preponderance of evidence, and with particular reference to the instant case, to warrant a recount of votes in these polling places. Moreover, our review of both the certified records and the official website of the National Elections Commission (NEC) reveals that there are nineteen (19) precincts officially established by the National Elections Commission (NEC) for the October 10, 2023 Presidential and Legislative Elections in District No. 2, Montserrado County, and of the nineteen (19), there exists no precinct with code 30219 in District No. 2, Montserrado County, Republic of Liberia. In denying appellant's allegation of the existence of precinct 30219, room #2, in District No. 2, Montserrado County, 2nd Appellee Kanneh testified that said precinct does not exist in District No. 2, Montserrado County. This testimony was never rebutted or in any manner refuted. Upon review of the records, the Board of Commissioners of the NEC agreed with the 2nd appellee, holding that the records show that precinct 30219, room #2 (Happy Kids Foundation) is actually in electoral district #13 of Montserrado County.

Secondly, the records of counts or tally sheets from Precinct 30225, Room #1, and Precinct 30228, room #4, which copies were respectively admitted into evidence by the hearing officer on request of 2nd Appellee Sekou Sarafody Kanneh, without any objections from appellant during their admissibility, were confirmed and affirmed by Board of Commissioners (BOC) of the NEC in its ruling on the appellant's appeal before it. Moreover, the appellant's contention that 2nd appellee Kanneh's votes obtained at Precinct 30225, room #1, was allegedly increased from 10 votes to 98 votes is not only unconvincing but is not supported by the records.

We note from the certified records that 2nd appellee Sekou S. Kanneh admitted an unaltered copy of the records of counts or tally sheets from Precinct 30225, Room #1, which said tally sheet is in full agreement with the tally sheet incorporated in the ruling of the Board of Commissioners (BOC) of the NEC. In addition, appellant contends that his votes obtained at Precinct 30228, Room #4, were allegedly altered from 103 votes to 25 votes. Based on our review and tabulation of the totality of votes, pursuant to the threshold set by the National Elections Commission (NEC) for every place (550 votes), we are not persuaded by the appellant's contention that his votes were altered from 103 votes to 25 votes. To accept that the appellant obtained 103 votes, as alleged by him, the total number of votes at Precinct 30228, Room #4 would have exceeded the threshold set by the NEC for October 10, 2023 Presidential and Legislative Elections for all polling places.

The law in this jurisdiction is that he who makes allegations or exerts claims against another must substantiate his claims by preponderance of the evidence. The Black Law Dictionary 11th Deluxe Edition defines preponderance of evidence as follow: ***"The greater weight of the evidence, necessarily established***

by the greater number of witnesses testifying to a fact, but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, it still sufficient to induce a fair and impartial mind to one side of the issue rather than the other”.

In the case *Frankyu et al. v. Action Contre La Faim*, 39 LLR 289, 296 (1999), the Supreme Court reiterated the long legal principle hoary with time in this jurisdiction that “allegations are intended only to set forth in a clear and logical manner the points constituting the cause of action for which relief is prayed, and if not supported by evidence, can in no case amount to proof”. This Court says further that “mere allegations do not constitute proof, and unless said allegations are supported by evidence, they shall remain mere allegations because it is evidence alone which enables the court, tribunal, or administrative forum to pronounce with certainty the matter in dispute”. *Universal Printing Press v. Blue Cross Insurance Company*, Supreme Court Opinion, March Term, 2015. Mr. Justice Junius, speaking for the Court, put it most succinctly in the following words: “In this jurisdiction, it is evidence alone which enables the court, tribunal or administrative forum to pronounce with certainty the matter in dispute, and no matter how logical a complaint might be stated, it cannot be taken as proof without evidence.” *The Management of the Forestry Development Authority (FDA) v. Walters et al.*, 34 LLR 777, 783 (1988). *Universal Printing Press v. Blue Cross Insurance Company*, Supreme Court Opinion, March Term, 2015

With respect to the allegation of fraud, this Court says that the appellant failed to present any evidence (oral or written) to substantiate such allegations. The Supreme Court has held in numerous of its opinions that “In order to constitute fraud, the

occurrence of some artifice, deception, or cheating must be proved". *Harmon v. Republic*, 24 LLR 176, Syl.2 (1975); that the burden of proof rest on the person who alleges fraud, and that the allegation of fraud must not only be stated with particularity but must be proved at the trial. *Wilson et al. v. Wilson and Ivy*, 37 LLR 420 (1994); *Scaf v. Ricketts*, 28 LLR 263 (1979). Thus, when allegation of fraud is made, the evidence not only rest on the person alleging the fraud but it must be clear and convincing and not be allowed to border on the realm of speculation. In the case *Multinational Gas and Petrochemical Company v. Crystal Steamship Company, S. A.*, 27 LLR 198 (1978) this Court said: "Fraud allegations unsupported by evidence not proof."

In the instant case, we see no evidence in the records shown by the appellant that fraud was perpetrated by co-appellee or by any officials of the National Elections Commission to warrant this Court setting aside the findings or rulings of the Board of Commissioners or the Hearing Officer. It is insufficient that the appellant testified that he was informed by his observers that fraud was committed. The best evidence was the person who claimed to have witnessed the fraud. In fact, given the importance of the issue, it would have been more beneficial had the appellant produced tangible or physical evidence as photo or video showing the commission of the fraud. But even in the face of the lack of this evidence, the appellant further refused to reveal the name of that person who claimed to have witnessed the fraud or to allow the person to testify in verification of the allegations made in the complaint. This Court has opined in many of its opinions dealing with evidence, and as indeed even articulated by our Civil Procedure Law that the best evidence of which a case admits must always be produced and that this evidence cannot be substituted by hearsay evidence which under the law has no probative value. Further,

the Honorable Supreme Court has held that “there is a strong presumption in upholding the validity of an election result and that the party who challenges the result must prove irregularities and/or fraud sufficient to change the outcome of the election. *Johnson v. NEC*, Supreme Court Opinion, October Term 2005.

Given the facts and circumstances in this case, we therefore hold that the appellant woefully failed to substantiate his allegations of discrepancies and alterations against the appellees. This Court, therefore, sees no legal and compelling reasons to order a recount of votes in the precincts and/or polling places hereinabove. On the other hand, we further opine that even if a recount was ordered by this Court the said recount cannot and will not substantially change the overall results of the elections in District No. 2, Montserrado County, Republic of Liberia due to the vote margin of 533 votes between the appellant, J. Nimely Doyen and Co-appellee Sekou Sarafody Kanneh.

WHEREFORE AND IN VIEW OF THE FORGOING, the appellant’s appeal is hereby dismissed and denied and the ruling of the Board of Commissioners (BOC) is confirmed. The National Elections commission is hereby ordered to resume jurisdiction and proceed to certificate the 2nd appellee, Sekou S. Kanneh as the winner of the Representative election of the District #2 Montserrado County, Republic of Liberia.

WHEN THIS CASE WAS CALLED FOR HEARING, COUSELLOR J. ALOYSIUS TOE. APPEARED FOR THE APPELLANT. COUNSELLORS J. AUGUSTINE TOE AND PETER Y. KERKULA APPEARED FOR THE

1ST APPELLEE, NATIONAL ELECTIONS COMMISSION AND
COUNSELLOR MOIFFIE KANNEH APPEARED FOR 2ND APPELLEE.