

IN THE HONORABLE 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

The Campaign Team of Mr. Julius K. Kanubah )  
for the Press Union of Liberia 2022 Elections, )  
by and thru Mr. Raymond Zarbay, D. Edwin )  
Clarke, Weemon Jallahcole, Titus Togba, Romeo )  
Togba, Festus Poquoi, Beatrice Sieh, all of the )  
City of Monrovia, Liberia .....Informant )

Versus )

BILL OF  
INFORMATION

His Honor Joseph Nagbe, Chambers Justice, )  
and the Administration of the Press Union of Liberia, )  
and the Elections Commissioners of the Press )  
Union, headed by Atty. Ade Wede Kerkulah, Fabin )  
Kwiah Eddie Harmon, Cllr. Bobby Livingstone, Atty )  
Al-Varney Rogers, Charles Coffey, Musa M. B. )  
Kanneh, Daniel Nyankonah, Caroline Myers Zodua )  
et al. of the City of Monrovia .....Respondent )

GROWING OUT OF THE CASE: )

The Campaign Team of Mr. Julius K. Kanubah )  
for the Press Union of Liberia 2022 Elections )  
by and thru Mr. Raymond, Zarbay, D. Edwin )  
Clarke, Weemon Jallahcole, Titus Togba, Romeo )  
Togba, Festus Poquoi, Beatrice Sieh, all of them )  
City of Monrovia, Liberia .....PETITIONER )

Versus )

PETITION FOR  
DECLARATORY  
JUDGMENT

The Administration of the Press Union of Liberia )  
And the Elections Commissioners of said Union )  
headed by Atty. Ade Wede Kerkulah, Fabine Kwiah )  
Eddie Harmon, Cllr. Bobby Livingstone, Atty. )  
Al-Varney Roggers, Charles Coffey, Musa M. B. )  
Kanneh, Daniel Nyankonah, Caroline Myers Zodua )  
et al. of the City of Monrovia )  
.....RESPONDENT )

Heard: May 2, 2023

Decided: December 19, 2023

## MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This Bill of Information finds its genesis in an action of Declaratory Judgment and its accompanying petition for preliminary injunction filed before the trial court by the informant, the Campaign Team of Mr. Julius Kanubah of the Press Union of Liberia 2022 election by and thru Mr. Raymond Zarbay, et al. The gravamen of that declaratory judgment suit is that one of the respondents, the administration of the Press Union of Liberia headed by Atty. Ade Wede Kerkula committed various irregularities leading to the conduct of the Press Union of Liberia 2022 elections in violation of the Press Union of Liberia's constitution. The informant, therefore, prayed that the trial court declare their rights and enjoin and restrain the respondent's elections commission from further proceeding with the conduct of the elections until the determination of the action of declaratory judgment.

The records show that the trial judge ordered the issuance of the temporary restraining order (TRO), thereby placing a stay on the conduct of the elections. The Respondents filed their returns to the declaratory judgment suit and a motion to vacate the temporary restraining order. The trial judge proceeded to order the restraining order lifted without a hearing. Aggrieved by this action of the trial judge, the informant petitioned the Justice in chambers to prohibit the trial judge from lifting the restraining order placed on the conduct of the elections. After a conference, the Chambers Justice declined to issue the writ of prohibition prayed for and mandated the trial judge to resume jurisdiction and proceed in keeping with the law. When the lower court read the mandate from the Chambers Justice, the informant again submitted before the trial court that, for reasons stated in their submission, the trial court should place a stay order on the induction of the officers elect pending the disposition of the declaratory judgment suit, since the Union held the election during the pendency of the prohibition. After considering the respondent's resistance and the argument had by the parties, the trial judge proceeded to place a stay order on the induction of the officers' elect. The respondent, dissatisfied by this action of the trial judge, filed a bill of information before the Chambers Justice claiming therein that the trial judge was wrongfully executing the mandate of the Chambers Justice by placing a stay on the induction of the officers' elect of the Press

Union of Liberia. The Justice in Chambers, after a conference, declined to issue the writ and sent a mandate to the lower court, ordering the judge presiding therein to set aside his stay order placed on the inductions. The informant has now filed this bill of information before this Court, claiming that the Chamber Justice's instruction to the trial judge to set aside his order placing a stay on the induction without issuing the writ and hearing the information deprives the informant of his day in court.

Given due consideration to the facts as outlined above, the issue that begs for resolution in this matter are:

1. Did the Chambers Justice err when he proceeded to vary the trial judge's ruling without issuing the writ prayed for and conducting a hearing?
2. Given that the Chambers Justice erred, can a bill of information lie to correct that error?

We shall now address the issues in the order in which they are presented. Concerning the first issue, this court says that it is a law in this jurisdiction that a Chambers Justice has the discretionary authority over petitions of remedial and extraordinary writs prayed for before him. *Judiciary Law Chapter 2 section 2.9*. However, if he declines to issue a writ in any such remedial petition, he is estopped from taking any further action to vary the tribunal's decision for which the remedial writ was prayed for; doing so will constitute a departure from the settled precedents of this court. This court has opined that where a Chambers Justice declines to order the issuance of an alternative writ, the Justice can go no further in instructing the trial judge other than to resume jurisdiction over the case and proceed in keeping with the law. *Karen Gayduo Sehkeporh v. His Honor Joseph N. Nagbe*, Supreme Court Opinion, March Term 2022; *In Re: Ibrahim et al. v. Paye et al.*, (2006); *Jawhary v. His Honor Ja'neh et al.*, Supreme Court Opinion, October Term, A.D. 2012.

In the instant case, our learned colleague cited and had a conference with the parties and, without the issuance of the alternative writ prayed for,

ordered the trial judge to vacate the 'Stay Order' that he placed on the inductions of elected officials from the challenged elections conducted under protest. This act deprived the informant of the right to challenge the mandate of the Chambers Justice, which the informant felt injured his interest. *Kruah v. Weah*, 42 LLR 148 (2004); *Davis et al. v. Nevins et al.* LRSC 6 (2016). As such, it deprives the informant of due process, which is constitutionally protected by Article 20(a) of the 1986 Constitution of Liberia. This court has held that while it recognizes the discretion of a Justice in Chambers to issue a temporary order pending the hearing and determination of a remedial writ, however, the interim order can only be issued when the alternative writ growing out of the remedial writ has been ordered issued. *Karen-Gaydou Sehkeporh v. His Honor Joseph N. Nagbe*, Supreme Court Opinion, March Term, 2022. It was, therefore, an error on the part of the Justice in Chambers to have ordered the trial judge to set aside his stay order imposed without issuing the alternative writ and determining the information filed before him. We, therefore, answer the first issue that our colleague inadvertently erred.

Relative to the second issue, it is the position of the respondents, Press Union of Liberia, that the office of a bill of information is well defined by the Rule of the Supreme Court: that a bill of information will lie to prevent a judge or any judicial officer who attempts to execute the mandate of the Supreme Court improperly from doing so; and that a bill of information will also lie to prevent anyone whosoever from interfering with the judgment and or mandate of the supreme court; that the informant not having averred in their bill of information that the Supreme Court Mandate was improperly executed or that any action or inaction was committed to interfering with the judgment and or mandate of the Supreme Court, a bill of information will not and cannot lie in the instant case. On the other hand, the informant contends that the act of the Chambers Justice denied them their right to appeal, and therefore, the only remedy available to them is a bill of information.

This court agrees with the respondent that the rules of the Supreme Court provide only two circumstances under which a bill of information may lie in a proper case. The court, however, has held that "it should be noted that although the rules of the Supreme Court ... limit the office and scope of a bill of information to only the irregular enforcement/obstruction of the Supreme

Court mandate, the Supreme Court pursuant to its constitutional authority to make rules for the proper governance for the practice of law expanded the office and scope of a bill of information... in these cases the Supreme Court expanded the office and scope of a bill of information by holding that a bill of information will lie against a Chambers Justice who issued an order without the issuance of the alternative writ". *Karen-Gaydou Sehkeporh v. His Honor Joseph N. Maybe, Supreme Court Opinion, March Term 2022.*

The facts, in this case, having established that our distinguished colleague, after a conference had, and without the issuance of the citation for the hearing of the bill of information, proceeded to order the trial court judge to set aside a stay order, bill of information is the proper remedy available to the informant. Therefore, a bill of information will lie.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the bill of information is hereby granted. The order of the Justice in Chambers to the judge in the court below to set aside the stay order on the induction of the officers-elect of the Press Union of Liberia, absent the issuance of the alternative writ, is hereby reversed. The clerk of this court is ordered to send a mandate to the Ninth Judicial Circuit, Bong County, commanding the judge presiding therein to resume jurisdiction over this case and proceed in keeping with the law. AND IT IS SO ORDERED

Bill of Information granted.

When this case was called for hearing, Counsellor Festus K. Newon, Sr. appeared for the informant. Counsellor Samuel S. Pearson appeared for the respondent.