

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN

ITS SPECIAL SESSION, 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

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Unity Party by and thru its Chairman and  
) All its Executive Officers of the City  
)  
of Monrovia, Montserrado County, Republic of Liberia )  
.....Appellant )

VERSUS ) APPEAL  
)

National Elections Commission by and thru its )  
Chairperson Devadatta Browne Lansannah and all )  
Authorized Representatives, of the City of Monrovia, )  
Montserrado County Liberia .....Appellee )

GROWING OUT OF THE CASE )  
)

Unity Party by and thru its Chairman and All its Executive ) BILL OF  
EXCEPTIONS )  
Officers of the City of Monrovia, Montserrado County )  
Montserrado County, Republic of )  
Liberia .....Appellants )

VERSUS )  
)

The National Elections Commission also of the City )  
OF Monrovia, R. L. ....Appellees )  
)  
GROWING OUT OF THE CASE )  
)

Unity Party by and thru its Chairman and all its ) ALLEGED  
VIOLATION )  
Executive Officers of the City of Monrovia, ) OF CHAPTER 4  
OF THE )  
Republic of Liberia,,,,.....Plaintiffs )  
ELECTIONS LAW )

VERSUS

The National Elections Commission also of the City  
Monrovia, R.L. ....Defendants

MADAM JUSTICE WOLOKOLIE DISSENTS

The Court has held that the function of the Judiciary is to interpret the law as it is written. This Court has been called upon by the Unity Party, appellant, to determine whether the National Elections Commission (NEC), appellee has violated Chapter 4, entitled “Conduct of Elections”, particularly Section 4.1(2) with respect to the number of registered voters in a precinct. Section 4.1 (2) of the New Elections Law as amended in 2016 reads:

“The number of registered voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed three thousand (3000).”

The Unity Party complained to the NEC that 93 voting precincts in nine counties constituting 4.5% of all the voting precincts in Liberia have more than 3,000 registered voters; that this intentional violation of the law cited above must be corrected immediately for the following reasons:

1. Overcrowded precincts create long waiting lines that discourage voters turnout especially amongst the elderly and illiterate voters.
2. Overcrowded precincts create opportunities for voters’ fraud including ballot stuffing.
3. Overcrowded precincts may cause the elections commission to create new polling places on short notice and this could cause

voters to not find their polling places or be discouraged from voting because they have been made to move to further away places.

The Unity Party therefore request the NEC to correct the errors and ensure that all voting precincts are not more than 3000 (three thousand) voters as required by law.

The Commission had the Hearing Office conduct a hearing into the Unity Party's complaint. The Hearing Officer after entertaining arguments into the complaint, dismissed the Appellant Unity Party's complaint, holding that the language of Section 4.1 (2) of the New Elections Law (2016) permits the NEC to register more than 3000 voters at any precinct. Because the Board of Commissioners of the NEC (BOC) agreed with the Hearing Officer's interpretation of the Statue, we herein quote the Hearing Officer's interpretation:

**“Let us look at Section 4.1(2) again: the number registered voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of voters in any precinct shall not exceed 3,000”.** The reference text is divided into three parts. The first clause states that the number of voters at each precinct must be approximately equal. While approximate does not mean exact, the clause suggests that the number must be as close to each other to the extent possible. The second clause which reads, “and unless the Commission in any particular case so determines...”, gives NEC the authority to register more than 3000 voters at any precinct when so warranted. This suggests that in certain cases, the NEC may specifically make determination on the number of voters' particular precincts may contain.

Third and final clause provided generic range of number of voters which shall not ideally exceed 3000 per precinct. (“...the number of voters in any precinct shall not exceed 3000”). This portion of the referred text comes in the latter after the NEC may not have in any

particular case determined that any precinct requires the number of voters there not being firstly, approximately equal to the rest, or secondly exceeding 3000 voters.

The Hearing takes administrative notice of similar situation which occurred in previous elections whereby respondent constituted some precincts having more than 3000 voters and others having far less than 3000, in some cases not even a quarter of the 3000 voters.”

Being dissatisfied with this Ruling of the Hearing Officer, the Unity Party appeal to the Board of Commissioners of the NEC, and the BOC affirmed the Hearing Officers Ruling holding: “A general rule of reading states that when a law is clear and unambiguous, that is, susceptible to only one reasonable interpretation, a tribunal uses the plain meaning and applies the law as written. We therefore agree with the Hearing Officer that Section 4.1 (2) is clear and unambiguous, and that it permits the registration of more than 3,000 Liberians at a voting precinct when so determined by the NEC”.

The Unity Party, excepting to the ruling of the BOC, has come to this Supreme Court urging the Court to reverse the erroneous interpretation of Section 4.1 (2) of the New Elections Law by the NEC.

Much to my dismay, my Colleagues of the Bench have concurred with the interpretation given to section 4.1 (2) by the BOC of the NEC, holding that the Legislature confers on the NEC the discretionary power in certain instances to make the necessary adjustment in the number of voters per precinct to achieve the objective of the election, which is to accord all registered voters the opportunity to vote; that except where the NEC, for no justifiable reason, exceed the upper limit for registering voters in a precinct, the commission has the competence to increase the number of voters per precinct beyond the 3000 threshold established by Section 4.1(2) of the New Elections Law.

I disagree with the Majority interpretation of Section 4.1(2) of the New Elections Law which confirms the BOC interpretation of the statute as it is contrary to the clear interpretation of the statute. In ascertaining the Legislative intent of Section 4.1(2) we must take recourse to the definition of a voting precinct found in the National Elections Law, Chapter 1.2(p) which defines a voting precinct as follows: "Voting Precinct" means a designated area containing no more than 3,000 registered voters." Clearly then, the framers of the Elections Law did not intend that the NEC would have the discretion, as the NEC and my Colleagues contend, to arbitrarily adjust the number of voters of a precinct beyond three thousand, since, if the number exceeded 3,000, the area would no longer be a voting precinct, but would have to be characterized by another nomenclature, which the law does not permit and does not grant to the NEC the power to undertake.

My Colleagues interpretation is contrary to the clear wording of Section 4.1(2). This Court has held that the courts have no legislative powers and, in the interpretation, and construction of statutes, their sole function is to determine and give effect to the intent of the Legislature. They cannot read into a statute something that is not within the manifest intention of the Legislature as gathered from the statute itself. To depart from the clear meaning expressed by the words is to alter the statute, to legislate and not to interpret. If the true construction will be followed with harsh consequences, it cannot influence the courts in administering the law. The responsibility for the justice or wisdom of legislation rests with the Legislature and it is the province of the courts to construe and not to make the law." *Roberts and Roberts v.*

*Roberts*, 7 LLR 358 (1942); *George v. R.L.*, 14 LLR 158,159 (1960) .

There is no ambiguity in the language of this section and it confers no discretion on the appellee NEC to exceed the three thousand votes per precinct limitation. The section clearly states that under no circumstance should the number of voters in a precinct exceed 3,000. What the section does is to recognize that there may be situations in which it may not be possible to achieve the "approximately equal" number of voters in every

precinct, and to therefore provide that the NEC should have the latitude to adjust the number of voters per precinct, but the statute is clear that in any such adjustments, the number of voters per precinct should not exceed three thousand. Indeed, if the interpretation given by my Colleagues was what was intended by the Legislature, it would mean that the NEC could in fact have a precinct containing 2,000 voters, another containing 3,000 voters, and still another precincts containing 20,000 or even 50,000 thousand voters. I do not believe that the framers of the Elections Law ever intended that the National Elections Commission would have such latitude or discretion. Such interpretation would open the entire electoral process to abuse and irregularities and would effectively establish the NEC as a law-making body.

Besides the legislative history of the Elections Law and the amendments made thereto in 2004 and 2014 clearly evince the intent of the Legislature to place a cap on the number of voters per voting precinct across the country. In each of these amendments, the Legislature always provided a ceiling which cannot be exceeded by the NEC in constituting a voting precinct. In 1986 when the law was originally enacted, the Legislature, at Section 4.1 (2) provided that the number of registered voters in any precinct shall not exceed 1000. In 2004, perhaps in recognition of the growth of the population and the need to afford every qualified Liberian the opportunity to vote, the Legislature amended the law to increase the number of voters per voting precinct from 1000 to 2000. It is important to note that in both the original law and the 2004 amendment, the legislature used the mandatory term “**shall**” in setting out the number of voters per precinct. Again, in 2014, the Legislature, after the conduct of the National Population and Housing Census in 2008 and the report therefrom of the increase in the population, amended Section 4.1(2) by increasing the number of voters per precinct from 2000 to 3000. This amendment in the New Section 4.1(2) New Elections Law (2016), in which the Legislature again employed the term “**shall**” in limiting and placing a ceiling on the number of voters to be assign to a precinct is therefore mandatory and not discretionary.

In view of the clear definition of a precinct provided by the law and the legislative history of the challenged section of the law, it is clear that the Legislature intended that a precinct has a specific number which must not be

exceeded by the NEC in any circumstance, and that number is 3000 voters per precinct. I therefore believe that my colleagues' interpretation of the statute is contrary to the plain wording of the statute, and that the NEC has acted in violation of Section 4.1(2) of the New Elections Law by having voting precincts with registered voters exceeding 3000.

The majority decision today completely undercuts the intent of the Legislature and the clear wordings of the statute, and has incorrectly empowers the NEC to substitute the law-making power of the Legislature with the NEC's own regulation. In effect, the majority today has delegated legislative powers to the NEC to determine the number of voters to be assign to every voting precinct across the country.

I believe that this Court should have correctly interpreted the law, and leave the decision with the NEC to work with the relevant election stakeholders in amicably finding a solution to the issue of the over-sized voting precincts considering the limited period for the holding of elections, and thereby allay the fears of the appellant, the Unity Party, that every registered voter would have an opportunity to vote.

For the reasons stated above, I disagree with my Colleagues' interpretation of Section 4.1(2) of the New Elections Law and decline to append my signature to the majority Opinion.

The Clerk of this Court will file this Dissenting Opinion in the archives of the Supreme Court.

Filed: October 5, 2023

Signed: \_\_\_\_\_

Jamesetta Howard Wolokolie

Associate Justice

