

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOHCHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE

**IN RE: GRIEVANCE AND ETHICS COMMITTEE REPORT BASED UPON A COMPLAINT
FILED BY JEREMIAH T. HINNEH AND JIAH NYANAY AGAINST COUNSELLOR
THOMPSON N. JARGBA.**

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

HEARD: NOVEMBER 12, 2024

DECIDED: December 19, 2024

The Complainants herein, Jeremiah T. Hinneh and Jiah Nyanay filed a complaint on May 1, 2024, alleging that they are defendants in a Summary Proceeding to Recover Possession of Real Property case in which the case was tried in the Civil Law Court for Montserrado County and judgment was rendered against them. That upon the rendition of judgment against them, their lawyer, Counsellor Thompson Jargba excepted and announced an appeal to the Supreme Court but did not file an appeal bond and notice of completion of appeal which if they are not filed, they will lose their property.

The complainants then complained Counsellor Jargba and kindly requested the Chief Justice to intervene and allow them to file their appeal bond and notice of completion of appeal in order to allow them to properly defend their property rights.

The Chief Justice forwarded the complaint to the Grievance and Ethics Committee (GEC), requesting the committee to investigate and forward its findings and recommendations to the Bench en banc.

Upon receipt of the complaint, the GEC notified Counsellor Jargba of the complaint against him and asked him to file his response which he did.

Counsellor Jargba filed his complaint response averring that, he handled the case as a lawyer and did all he could to provide his clients proper legal representation, but they damaged their own case due to their failure to provide funding to secure an appeal bond. After final judgment was rendered against them, he excepted and announced an appeal and filed the bill of exceptions which was approved by the trial judge. He later informed the complainants that

they needed to file an appeal bond valued at Thirty-Seven Thousand Five Hundred United States Dollars US\$37,500.00, which was one and half times the money judgment.

Counsellor Jargba further narrated that he continued to ask the complainants for money to file the bond and informed them that the bond is crucial and mandatory to their case and because of this, Mr. Hinneh, one of the complainants informed him (Counsellor Jargba) that he would procure a loan from Access Bank in order to secure the appeal bond but to his surprise, Mr. Hinneh informed him that he had a lawyer friend who wanted to help him and went ahead and procure a document from the National Archives to show that the deed used by the plaintiff in the original suit is fraudulent and therefore was contemplating filing a motion for relief from judgment.

Counsellor Jargba further averred that Mr. Hinneh informed him that the new lawyer wanted the records of the case and after he confirmed the same from Counsellor Mark Kollie, (the new lawyer who is also a friend of Mr. Hinneh), he, on March 20, 2024, turned over the entire records to Counsellor Mark Kollie in the presence of two other persons. That, he (Counsellor Jargba) continued to put pressure on the complainants to file their appeal bond, which they failed to do, and after April 10, 2024, he informed them that their failure to file an appeal bond damaged the case.

The committee conducted an investigation and listened to testimonies from both sides. The committee also invited Counsellor Mark Kollie to give his side of the story. The committee also invited one, Victor Johnson and Jeremiah Hinneh Jr., who also testified in the matter.

The GEC, after listening to the matter and conducting its investigation concluded that:

- a. That there was a genuine lawyer-client relationship between the Complainants and Respondent.
- b. That Complainant Hinneh stated that he gave the Respondent Six Hundred United States Dollars (US\$600) to process the appeal bond and provided witnesses to prove same.
- c. That the Respondent dereliction in perfecting the appeal caused the statute to run against the complainants.
- d. That the Respondent failed to explore the legal remedy available to him, that is, instead of the appeal process, he should have gone up to the Supreme Court on a remedial process. Further, he should have written Mr. Hinneh a letter to put him on record for his failure to produce the money to perfect the appeal.

The GEC then recommended that the Respondent (Counsellor Thompson Jargba) be reprimanded for his failure to provide adequate legal representation for his client.

Counsellor Jargba, excepted and announced an appeal to the Supreme Court. In his brief, he argued that he did not perfect the appeal due to the failure of the complainants to make available funds to secure a valid appeal bond; that the complainants did not trust his representation, even though he did all he could reasonably do as a lawyer to represent them properly, including excepting to the court's ruling and announcing an appeal and filing a bill of exceptions which was approved by the trial judge; that after the complainants, particularly, Mr. Hinneh informed him about Counsellor Mark Kollie, who he (Mr. Hinneh) claimed was a friend of his involvement with the case, he (Counsellor Jargba) was requested by Mr. Hinneh to turn over the documents of the case to Counsellor Mark Kollie which he did; that the complainant assertion that he gave him (Counsellor Jargba) Six Hundred Dollars (US\$600) is false and this was the reason why it was never mentioned in their complaint filed in the office of the Chief Justice and as such the testimonies of the complainant and the witnesses on his behalf is false and the same was seen from the contradicting statements given by the witnesses during the hearing; that the complainants later preferred Counsellor Mark Kollie to handle the case as seen from their request to have the case files transferred to him.

The appellant then prayed the Court to reverse the findings and recommendations of the Grievance and Ethics Committee.

We will now proceed to peruse the records to adequately determine whether to uphold the findings and recommendations of the GEC or reverse same.

The main contention of the complainants is that Counsellor Jargba acted carelessly by not perfecting their appeal until the statutory time elapsed, a claim that Counsellor Jargba has argued is no fault of his.

In the complaint filed before the office of the Chief Justice, the complainants made no mention of any money paid to Counsellor Jargba for the procurement of an appeal bond. However, during the investigation, the complainant mentioned that he gave the respondent/appellant Six Hundred United States Dollars (US\$600) and produced two witnesses to prove this assertion. During the testimony of the complainant first witness, one Victor Johnson, he was asked the following questions and provided the following answers:

Q. Mr. Witness, the US\$600.00 that was given to Counsellor Jargba, was it in bills or small denominations?

A. It was in small denominations, mixed, 10s and 20s.

Q. Mr. Johnson, did Counsellor Jargba give you people receipt when the payment was made?

A. No.

The complainant other witness, Jeremiah Hinneh, Jr. was asked the following questions, and he provided the following answers:

Q. Hinneh, Jr., were you present when your father gave Counsellor Jargba US\$600.00?

A. Yes.

Q. How was the money given, bills or small denomination?

A. 100s and 50s bills.

Q. Hinneh, Jr., was the surrounding clear enough for you to have seen the money?

A. Yes, there were lights all over the place.

Q. Hinneh, Jr., how do you know it was US\$600.00?

A. I know because when my father gave the money to Counsellor Jargba, he counted it in our presence.

These testimonies of two of the complainant witnesses are out rightly contradictory and it leaves doubt in the mind of the court if money was ever given to Counsellor Jargba to secure an appeal bond to perfect the appeal. The testimony is clear, especially from the complainant son, Hinneh Jr., that the room was well lighted and he saw Counsellor Jargba count the money in his presence and he is positive that the money was in 100s and 50s bills while the other witness insisted that the money was in 10s and 20s; meanwhile, Counsellor Jargba, had consistently said all through the trial and from his responses filed that he persistently requested the complainant to provide him with funds so he could secure an appeal bond, but the complainants failed to do so which eventually led to the time elapsing for perfecting the appeal.

We wonder, how did the two witnesses in a well-lit room see two different denominations of the alleged Six Hundred Dollars (US\$600) given to Counsellor Jargba? This leaves a lot of doubt and makes any reasonable mind wonders if any money was actually given to Counsellor Jargba, especially in the absence of receipts to prove the said allegation.

The law in this jurisdiction is where there is doubt; it should work in favor of the accused and lead to his acquittal. *Tody Heith v. Republic*, 39 LLR 50, 63 (1998); *R.L. v. Williams*, Supreme Court Opinion March Term, 2014.

Every client is under duty to provide his lawyer with the necessary resources, including adequate financial resources, in a timely manner in order to enable the lawyer to perform his role properly. Failure to do so on the part of the client, the lawyer cannot be held fully accountable for running afoul with the law or running out of time to perform certain legal duties.

If the complainant had provided Counsellor Jargba with the amount requested and he (Counsellor Jargba) failed to perfect the appeal, this Court would have definitely taken drastic action against Counsellor Jargba, but as it stands, there is no evidence to prove that Counsellor Jargba had the necessary resources and still failed to provide adequate legal representation to the client which led to his appeal being dismissed.

Because of this, we find it improper to rely on mere allegations by the complainant to punish or reprimand Counsellor Jargba as such allegations cannot constitute proof without being supported by evidence, 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.

There is no proof and evidence of the complainants' allegation that the said money was given to the respondent, Counsellor Jargba; moreover, by parity of reasoning, had the complainant actually given Six Hundred United States, it would have been the first count in their complaint to the Chief Justice; but their written complaint proves that no money was ever given.

WHEREFORE AND IN VIEW OF THE FOREGOING, the complaint is hereby dismissed. IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS KUKU Y. DORBOR, BARTOR CORA HOLMES VARMAH, J. AWIA VANKAN AND TOMMY N. DOUGBA APPEARED AS AMICI CURIAE. COUNSELLOR THOMPSON JARGBA APPEARED PRO SE.