

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2017.

Present: His Honor: Francis S. Korkpor, Sr.Chief Justice
Present: His Honor: Kabineh M. Ja'neh.....Associate Justice
Present: Her Honor: Jamesetta H. Wolokolie.....Associate Justice
Present: His Honor: Philip A. Z. Banks, IIIAssociate Justice
Present: Her Honor: Sie-A-Nyene G. Yuoh.....Associate Justice

Boima J. Monabah UP Agent of Grand Cape Mount)
County, Liberia.....Appellant)
VERSUS)

NEC Polling Staff of Electoral District #1 and Bob H.)
Sheriff Representative Elect Electoral District #1 Grand)
Cape Mount County, Liberia.....Appellee)

APPEAL
BILL OF
EXCEPTIONS

GROWING OUT OF THE CASE:

Bob H. Sheriff Independent Candidate Representative)
Elect, Electoral District #1, Grand Cape Mount County,)
LiberiaAppellant)
VERSUS)

Joseph J. Taweh Magisterial Office Hearing Officer)
Grand Cape Mount County and Boima J. Manobah/UP)
Agent,Grand Cape Mount County)
.....Appellee)

GROWING OUT OF THE CASE:

Sheriff Representative Elect Electoral District #1 Grand)
Cape Mount County, Liberia.....Informant)
VERSUS)

Boima J. Monabah UP Agent of Grand Cape Mount)
County, Liberia.....Respondent/Complainant)
VERSUS)

APPEAL
BILL OF
INFORMATION

Heard: December 12, 2017

Delivered: December 20, A.D. 2017

Counsellors Peter Y. Kerkula of Jones & Jones Law Firm and Laveli Supuwood of Foundation Law Firm, appeared for the Appellant. Counsellors Joseph N. Bliidi, In-House Counsel, NEC, Frank Musa Dean, Jr. and C. Alexander B. Zoe, appeared for the 1st appellee. Counsellor Alhaji Swaliho A. Sesay of Sesay, Johnson and Associates Law Chambers, appeared for 2nd appellee.

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

Honourable Boima J. Monabah, County Mobilization Officer/Party Agent of the Unity Party, appellant in these proceedings, on October 12, 2017, filed a formal complaint before the Election Magistrate/Hearing Officer in Grand Cape Mount County. This followed the conduct of the Presidential and Representatives elections on October 10, 2017. Appellant's complaint substantially alleged multiple voting

irregularities and inaccurate counting of ballots in Bamballa Center, District # One, Grand Cape Mount County. For the benefit of this Opinion, we hereunder reproduce the said complaint:

"From: Unity Party, Grand Cape Mount County
To: The Election Magistrate/Hearing Officer of Grand Cape Mount County
Subject: Complaint from Electoral District # 1 (one)
Date: October 11, 2017

Sir/Madam,

The Unity Party write to register to your office the below listed complaint:

- 1. Our poll watcher assigned to Bamballa Center in District #One complained to Unity Party that some voters were allowed to vote twice at that center, and one was caught and turned over to the officer assigned to that center.*
- 2. Ballots were not counted properly in said district.*

Therefore the Unity Party is asking for recount in Electoral District # One, and also reelection of the Bamballa Center.

Signed: [signature]

Boima J. Monobah
County Mobilization Officer/Party Agent
Unity Party
0886611177"

Seized of the matter, the Hearing Officer, Atty. Joseph J. Taweh, on October 16, 2017, commenced hearing into said complaint. According to the records certified to this Court, Appellant Boima J. Monobah was represented at the Hearing by his legal counsel, Counsellor Peter Y. Kerkula, of the Jones & Jones Law Firm. We are mentioning this legal representation for reason which we will attend to later in this Opinion. Mohammed G. Manobah, PP#2 Presiding Officer, David D. Sando, PP #4 Presiding Officer and Mr. Sam Sando Taylor ED #1 attended the Hearing as defendants and represented themselves.

At the Hearing, both the party appellant and the party appellee each deposed witnesses. We must remark here that the appellant, as the party complainant, was required under the law to prove the allegations set forth in the complaint herein above quoted. In this regard, the appellant/complainant deposed four witnesses.

The Complainant, Boima J. Manobah, first testified. He told the investigation/hearing that various poll watchers across the county brought to his attention issues of perpetration of fraud and commission of election irregularities at Bamballa and Viakanway Polling Precinct, in District #1 of Grand Cape Mount County. He testified:

"At Bamballa precinct 12016, things went on that were not supposed to go on, such as (a) people voting twice; (b) people coming to vote where they are not to vote. For instance, at Bamballa Precinct, one person was caught voting twice and turned over to the officer assigned and even the Presiding Officer is aware; but the observers told me that the person (in question) escaped during argument. At Viakanwey Center, Polling Precinct # 2, some people voted there that were not to vote there and after the entire process, it was proven to us by the record of the tally given by the NEC. That is, Polling Precinct #1305 votes registered, and from this number 319 voted for representatives and 321 voted for the Presidency. I will be very happy were NEC to conduct a re-counting or if possible a re-election at the Bamballa Precinct 12016."

The other two witnesses, Simeon Boima Taylor and Charles Eugene Boakai, basically testified recounting what the first witness had deposed. As for Witness Taylor, he told the investigation that a National Election's Registrar took (voting) materials to Sierra Leone and registered Sierra Leoneans every Sunday. He claimed that one thousand nine hundred fifty one (1951) persons were registered during this process. He also alleged that investigation was conducted by the Elections Magistrate, Honourable David Armah, who infact said that the information *"was misleading and had no iota of truth."* According to Witness Taylor, Sierra Leoneans threatened to stop Liberians from the voting process; that he *"brought some voter ID Cards as proof that more Sierra Leoneans voted"* during the October 10, 2017 elections.

Complainant fourth witness, David D. Sando was asked the following question during the hearing:

Quest: *Is it also true that people repeatedly voted at Bamballa Center?*

Ans: *Evidence of a woman being caught was proven.*

In their testimonies in general, witnesses for the complainant said that at Viakanwey, where the Final Registration Roll (FRR) listing was a total of 305 registered Voters, 319 votes were recorded at the end of the voting process on October 10, 2017; that there was a woman at the Bamballa Center who voted twice using different names (Sao Madave and Mamie Kamara); that the lady was arrested and the voting ID cards taken from her.

When the parties rested evidence, the Hearing Officer reviewed the evidence and ruled ordering a re-run of the elections in Polling Place #4 at Bamballa and Polling Place #1, (Viakanwey) District #1, Grand Cape Mount County. According to Attorney Joseph J. Taweh, Hearing Officer, the elections in the two polling places were marred by fraud and irregularities.

But a representative candidate in the October 10, 2017 elections and Co-appellee in these proceedings, Bob H. Sheriff, on October 20, 2017, filed a Bill of Information before the Board of Commissioners (BOC) of the National Elections Commission (NEC). In the Bill of Information, the Informant/Co-appellee Bob Sheriff, averred as follows:

1. *That he was a candidate in the October 10, 2017 representative election in electoral district #1, Grand Cape Mount County;*
2. *That he obtained the highest votes during the said election;*
3. *That as a party of interest/necessary party, the Hearing Officer should have accorded him due process; and*
4. *That the Hearing Officer's ruling of October 17, 2017 adversely affected him."*

The Board of Commissioners, (NEC) upon review of the records, set aside the ruling of the Hearing Officer. According to the Board of Commissioners, Hearing Officer Taweh did not accord Informant/Co-appellee Sheriff his right to due process of law. The Board also held that the Hearing Officer, in ordering recount, exceeded his authority and the scope of the complaint filed by the complainant. The Hearing Officer, on October 24, 2017, was therefore mandated by the Board of Commissioners to confine himself to the allegations raised in the pleadings and to have Informant Sheriff duly notified as an additional defendant and commence a new investigation.

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We are in full agreement with the holding of the Board of Commissioners in this respect. Persons who have participated in public elections are necessary parties of interest in any and all proceedings which impact, whether positively or negatively, on those elections. Said person must therefore be cited to participate in the hearing of any complaint lodged regarding said elections. In *Dorbor et al. versus National Elections Commission*, (Supreme Court Opinion, October Term, 2011), the Supreme Court enunciated two principles of law; one on standing and the other, mandatory issuance of citation to hearing of a complaint. On standing, the Court said: "...a person who has been duly qualified and officially declared a candidate by the National Elections Commission is indeed a real party in interest; hence has acquired virtually all the attributes of standing"; and on notice, this is what the Court said: "service of notice on all relevant parties is a mandatory requirement precedent to investigating and hearing of a complaint put before the Commission." This Court, further speaking through Madam Justice Howard-Wolokolie, as to the legal utility of notice, said as follows: "The basis for the requirement of notice is to afford a party whose interest is likely to be affected by any action or proceedings the opportunity to defend against the claim. That right is taken away when a party is deprived of the right to notice. Indeed, such action is inconsistent with and totally against our constitutionally enshrined principle of due process of law, a critical embodiment of our Constitutional democracy, which this Court has upheld in a long line of cases." *Saydee versus National Elections Commission (NEC)*, Supreme Court Opinion, October Term, 2011.

In the current case, although Informant Bob Sheriff was a representative candidate in the October 10, 2017 Representative and Presidential Elections, the Hearing Officer, Attorney Taweh, upon receiving a complaint alleging election fraud and irregularities, proceeded to investigate said complaint without any notice to all the contestants, including Co-appellee, Bob Sheriff. This conduct was in obtrusive violation of the law in vogue.

It is our considered opinion that a magistrate/Hearing Officer therefore commits reversible error, as a matter of law, if he entertains and conducts investigation into a complaint of allegation of election irregularities and/or fraud without due notice to all the parties of interest.

Having held that the Hearing Officer committed reversible error, the Board of Commissioners (BOC), on October 31, 2017, mandated him to resume jurisdiction over the case and conduct a new trial and make the Informant an additional defendant. At the new Hearing, conducted pursuant to the mandate of the Board of Commissioners, each side produced four witnesses who testified in support of their respective positions and thereafter rested. However, when the parties appeared for closing arguments, the Hearing Officer ordered the Election Magistrate, David Armah, to recount the votes cast at Viakanway, Polling Place#1, precinct 12051, District # 1, Grand Cape Mount County. This order was carried out over the objection by counsel of Informant/Co-appellee Sheriff who argued (1) that the conduct of recount after the parties had rested with the production of evidence in the matter was irregular; (2) that no application as such was made for a recount; and (3) that the Board of Commissioners (BOC) having mandated the Hearing Officer to restrict the investigation to matters raised in the complaint, his decision to conduct a recount in Viakanway, Grand Cape Mount County, which was never a matter of complaint, violated the Board's mandate.

The Hearing Officer nevertheless proceeded and the physical recount was carried out. The recount showed that the Informant, Bob Sheriff, obtained a total of 253 votes at the Viakanway Polling Place while the Unity Party candidate, Simeon Taylor, obtained 40 votes. The records reveal that the Board of Commissioners, in the face of this apparent disregard of its mandate to the Hearing Officer, to restrict the investigation to the contents of the formal complaint of October 12, 2017, authorized a "recount team", headed by Mr. James Wallace, Director of Training, National Elections Commission (NEC), to proceed to Electoral District #1 in Grand Cape Mount County, cite all of the representative aspirants who were not part of the first recount conducted by the Hearing Officer, and conduct a recount. It would seem that the Board based its decision on information it received that the Hearing Officer had conducted a recount of votes restricted to those obtained by candidates Sheriff and Taylor only.

When the recount was conducted by the team led by Director Wallace of the NEC, the result was that Mr. Bob H. Sheriff this time obtained 252 votes, 1 vote less than the previous count, as one vote for Co-appellee Sheriff was declared invalid, while Mr. Simeon Taylor obtained 40 votes.

At the conclusion of this exercise, all the parties, including the appellant/complainant, Boima J. Monobah, signed the result sheet as agent of the Unity Party. Strangely, this final recount result was not included in the Final Ruling of Hearing Officer, Attorney Joseph J. Taweh.

In his final Ruling, Hearing Officer, Taweh raised two issues. We quote the relevant part thereof as follows:

"Considering the facts and circumstances of this case, two issues are determinative of this matter: (1) Has the complainant provided evidence sufficient to prove the allegation raised in his complaint against the defendants?; (2) Whether or not the defendants in these proceedings provided evidence to support their side of the case.

The complainant in these proceedings alleged amongst other things, that voters were allowed to vote more than once in the Bamballa Precinct and requests that the Commission conducts a re-count or re-run at said precinct. Complainant's witnesses, in person of Ben Kamara testified during the trial that people were allowed to vote twice. However, defendants in their testimonies admitted that a lady attempted to vote twice and that said lady was picked up by State Security. Admission in part is admission in whole.

WHEREFORE and in view of the above facts and circumstances, the prayer of the complainant is hereby granted, the Magistrate of Grand Cape Mount County is hereby ordered to arrest Madam Madave, turned her over to the Ministry of Justice for prosecution. This Hearing also orders that a re-run be instituted in Viankaway Polling Center # 1, District # 1, Grand Cape Mount County, Republic of Liberia."

We see in the certified records that a bill of exceptions was filed before the Board of Commissioners on November 28, 2017, containing ten (10) counts. Said bill of exceptions appears to have been duly approved by the Hearing Officer, Attorney Taweh, without noting any reservations thereon. Also on the same date, November 28, 2017, counsel for Co-appellee Sheriff simultaneously filed with the Board of Commissioners a bill of Information containing seven (7) counts.

Because we deem it important to highlight what seems to be an orchestration to frustrate the ends of justice, we reproduce hereunder, said bill of information to wit:

- "1. That the hearing in the Cape Mount Case from Bambala has been concluded one (1) month Eighteen (18) days and the parties have been awaiting final judgment and Correction of the minute because the Co-defendant Bob H. Sheriff testimony was omitted and the hearing refuse to prepare his final judgment but was assisted by Cllr. Muana Ville and waited the hearing officer who said he was walking down the road to come back but also failed to return only to inform Cllr. Ville that he was ill.*

2. *That this attitude of the hearing officer was complained to Members of the Board of Commissioners and the Executive Director who ordered that all efforts should be made to have Hearing Officer Joseph Taweh come to sign the ruling that was jointly prepared by Muana Ville which he refused to do on ground that he was ill and that he was on his way to the sick bush; to the outmost surprise of information, the Hearing Officer was seen in Gbarnga, Bong County at the Convention after he had told Cllr. Ville that he could not come and also after all efforts to contact him by phone was to no avail because he had engaged in the preparation of another ruling contrary to the ruling jointly prepared which included the re-count that was conducted by James Wallace and a team of officers by the National Elections Commission.*
3. *That this Hearing Officer has illegally prepared a ruling and have seem dropped by the office of Cllr. Ville and placed himself into hiding to prevent the parties who may be filing Bill of Exceptions from seeing him until 48 hours rules of this Commission expired; which conduct is deliberate and undermines the integrity of this honorable body. For which a stay order must be issued to prevent the circulation of the said ruling until the recounts results can be included in the said ruling, and to have the Hearing Officer stay any further action in this matter so as not to undermine the integrity of the proceedings.*
4. *That since the reading of the mandate and the commencement of the trial the Hearing Officer has gone out of the mandate of this Board of Commissioners and began hearing matters that are not contained in the complaint specifically the issue of Viakanway which was never in the complaint on the authority of his Boss according to him.*
5. *That the Hearing Officer after engaging in several delay tactics and avoiding the signing of the joint ruling prepared which included the re-count conducted by James Wallace the training director which result shows that Mr. Bob Sheriff maintains a lead of 252 votes and Mr. Simeon Taylor having a total votes of 40; these results have been ignored by the hearing officer and set aside the joint ruling thereby preparing a separate ruling contrary to the mandate of this honorable body to restrict himself to the complaint and ordering re-run in District #1 without any legal justification. Attached hereto is copy of said ruling and the records of count marked as "Exhibit I/1" in bulk.*
6. *That the Hearing Officer has proceeded contrary to the mandate of this honorable body thereby going outside of the complaint before him and maintaining thereafter the previous ruling which was set aside by the mandate of this honorable body which went into issues that were contained in this complaint; that is, issue of voters' registration which had long being resolved thereby bringing misunderstanding only to maintain the previous ruling set aside which requested a re-run in District #1.*
7. *This act on the part of the Hearing officer has the propensity of causing chaos if not stopped because no notice of assignment has been ordered for the hearing and/or ruling on the case, and the Hearing Officer has completely ignored the mandate and instructions of this Honorable Body which must immediately be corrected so as not to have the illegal ruling prepared by the Hearing Officer published into the public domain, because that will be a contradiction of the Commission's stand on the justification of the FRR and the unjustified authorization of re-run without any legal proof or evidence.*

The action therefore should immediately be corrected and a notice of assignment made to have the actual ruling jointly prepared to include, the results of the two re-counts authorized by Your Honors to reflect the evidence produced by the parties and the complaint before this Commission.

WHEREFORE, AND IN VIEW OF THE FOREGOING, informant prays Your Honor to place a stay on the illegal ruling being circulated by the Hearing Officer and have the previous ruling jointly prepared read through a notice of assignment sent to all the parties and to have a permanent stay order issued against the Hearing Officer from making pronouncement in these proceedings without the authorization of this Honorable Body.

RESPECTFULLY SUBMITTED:

BY AND THRU DEFENDANTS' LEGAL COUNSELS
 SESAY, JOHNSON AND ASSOCIATES LAW CHAMBERS
 FIRST FLOOR ABI-JAOUDI BUILDING
 INTERSECTION OF GURLEY & BROAD STREET

Atty. Boye Theophilus Sumo
 One of Counsels for Defendants/Appellant
 Atty. Alieu M. Bility
 Atty. Amara A. Kenneh
 Cllr. Alhaji Swaliho A. Sesay
 One of Counsels for Defendants/Appellant
 Cell#: 06520875
 Done this 21st day of Nov., A.D. 2017.

On December 1, 2017, the Board of Commissioners conducted hearing on the Bill of Information and thereafter handed down its Final Ruling. In that Final Ruling, the Board of Commissioners granted the appeal of Co-appellee Bob H. Sheriff, reversed the ruling of the Hearing Officer, and declared Co-appellee Sheriff as the winner of the October 10, 2017 Representatives Elections in District #1, Grand Cape Mount County. We shall revert to this Final Ruling as entered by the Board of Commissioners later in this Opinion.

Meanwhile, Boima J. Monabah being dissatisfied with the Final Ruling of the Board of Commissioners, announced an appeal to the Honorable Supreme Court of Liberia. As part of the requirements thereof, the appellant has placed before us a bill of exceptions, containing twenty three (23) counts, duly approved by the Board of Commissioners, NEC. We here under reproduce said bill of exceptions as follows:

1. *That the Board of Commissioners erred when said Board unilaterally vacated and overturned the initial decision of the Hearing Officer, Joseph J. Taweh on the 24th day of October A. D. 2017 in the matter at bar and remanded the case to him with instruction to add as additional Defendant, Mr. Bob H. Sheriff; Independent Candidate for Electoral District# 1 ,Grand Cape Mount County; confined himself to the allegation raised in the pleadings; and commence a new investigation, without any formal hearing of the parties before said decision was rendered.*

Hence, the Hearing Officer and the Appellant not having been notified and accorded due process by the Board of Commissioners prior to the mandate of said Board to annul, set aside and vacate the Ruling of the Hearing Officer, same is hereby a reversible error.

2. That the Board of Commissioners erred when they misconstrued and misunderstood the entire complaint to the effect that Viakanway which is an integral component of District #1 considered by the Board of Commissioners was not a part of the Complaint filed by the Appellant when Count two (2) of the Appellant's Complaint clearly stated that, "**Ballots were not counted properly in said District**", when contrary to which the Board of Commissioners ruled stating therein that because the name Viakanway was not specifically stated in the Complaint said area cannot and should not form part of Appellant's Complaint before the National Elections Commission. Because the NEC Board's Ruling failed and neglected to recognize and give credence to this crucial fact, the Ruling of the Board is erroneous and contrary to general and acceptable principle of law.
3. That the Board of Commissioners erred when they failed and neglected to exercise and accord due process to the Honorable Hearing Officer and the Appellant prior to the Mandate which annulled and set aside the initial Decision of the Honorable Hearing Officer without any formal hearing. Under the principle of the rule of law clearly provides that "**one must be heard before he is condemned.**" This goes to say that assuming but not admitting that the Ruling of the Hearing Officer adversely affected Bob Sheriff, proper thing that the Board of Commissioners should have done was to entertain a forum for the Hearing Officer to be heard prior to the handling down of the Board's mandate. This not being the case in these proceedings the process which led to the handling down of the mandate is void ab initio. Because what is done not legally is not done at all under our law. Therefore, Appellant excepts and tenders this Bill of Exceptions to review and reverse the Decision of the Board of Commissioners as same does not conform with tenets of the law.
4. That after oral arguments, on December 1, A.D. 2017 at about 7:00pm, the NEC Board recessed the proceedings for exactly one (1) hour, returned and rendered its Final Ruling at the end of which it stated, ". . . accordingly, the rerun ordered by the hearing officer in this matter, been erroneous and in violation of the expressed mandate of the Board of Commissioners is hereby reversed... wherefore and in view of the foregoing, the ruling of the hearing officer in these proceedings is hereby reversed. The result of the recount authorized by the Board of Commissioners which shows Mr. Bob H. Sheriff with 252 and Mr. Simeon B. Taylor 40 votes at polling place no. 1, Precinct 12051 Viakanway is hereby adopted confirmed and affirmed. Mr. Bob H. Sheriff, having obtained the higher votes in the October 10, 2017 Elections in Electoral District #1, Grand Cape Mount County is hereby declared the winner of the said election. **AND IT IS HEREBY SO ORDER**". The Board of Commissioners of the National Elections Commissioners (NEC) having resumed Appellate jurisdiction over the matter, the review process of the Board of Commissioners

of the matter at bar experience strange legal phenomena as it relates to examination to the issue raised, the evidence and testimonies provided were not adequately review by the Board of Commissioners prior to its Ruling which set aside and reverse the decision of the Hearing Officer. To this Ruling of the Board, Appellant excepted and announced an appeal to the Supreme Court as provided for by the laws of the National Elections Commission and the Constitution of the Republic of Liberia.

5. That the Board of the National Elections Commission erred when said Board in its Ruling flagrantly ignored the cogent and material evidence; the relevant and controlling laws and testimonies of the witnesses at the Hearing, all of which were critically reviewed and analyzed by the Hearing Officer during the investigation of first instance, specifically testimonies regarding fraud and irregularities at the Bamballa and Viakanway, unrebutted and not discredited by the Appellee during the trial. Therefore, Appellant excepts and tenders this Bill of Exceptions for Your Honors review and subsequent reversal of the Decision of the Board of Commissioners of the National Elections Commission as said decision is totally erroneous and reversible under our law.
6. That the Board of Commissioners of the NEC erred when they, at the exclusion of the Hearing Officer and the Appellant set aside and annulled the Ruling of the Hearing Officer and gave consideration to what purports to be an information from the legal counsel of Mr. Bob Sheriff in that, "Upon learning of the foregoing ruling of the hearing officer Mr. Bob Sheriff by and thru his Legal Counsel on October 20, 2017 filed an information to the Board of Commissioners stating: (1) That he was a candidate in the October 10, 2017 representative Elections in Electoral District # 1 Grand Cape Mount County; (2). That he obtained the highest during the said election; (3). That as a party of interest necessary party, the Hearing Officer should have accorded him due process; (4). That the Hearing Officer Ruling of October 17, 2017 adversely affected him., upon receipt of the said information, we reviewed the records and observed that the Hearing Officer did not accord Mr. Sheriff due process, and that the Hearing Officer exceeded the scope of complainant's complaint by addressing Viakanway Precinct, an area where complainant did not allege any wrong doing. On October 24, 2017 we mandated the Hearing Officer to confine himself to the allegations raised in the pleadings; add Mr. Sheriff as additional Defendant, and commence a new investigation".

That further to the above, the Mandate of the Board of Commissioners of the National Elections Commission vacating and setting aside the initial ruling of the Hearing Officer and further requesting said Hearing Officer to confine himself to Appellants' allegations is a scheme designed by the Board to scare and teleguide the Hearings and the Hearing Officer to render a decision of the Board's interest in total contravention of the NEC's Regulation on Elections Hearings Procedure Article 3, Jurisdiction Article 7, Hearings, 7.1, and 7.7, which specifically provides the followings: Article 3, Jurisdiction.

- 3.2 Chief Dispute Hearing Officer shall have power and jurisdiction of the first instance to adjudicate disputes, hear and determine.

Article 7, Hearings..... Regulation On Complaints And Appeals

- 7.1 The NEC shall designate Hearing Officer who shall be independent in their duties as Hearing Officers under the regulations. Magistrates shall have the power of the first instance.
- 7.6 The Hearing Officer has the power and jurisdiction of the first instance
- 7.7 The Board of Commissioners shall sit in Appellant Division and exercise only Appellant jurisdiction over all disputes relative to decisions made by the Hearing Officers/Magistrates and rule on the case documents or in extra cases request the hearing of arguments of the representation only.
8. The Board of Commissioners' Mandate which annulled and set aside the Ruling of the Hearing Officer failed and neglected to adhere or give legal effect to the regulations herein stated above in that the Hearing Officer is an investigator of first instance, designated by law to exercise independence in his duties as Hearing Officer to adjudicate electoral disputes; in another word, the Hearing Officer is a fact finder who by all indications and the extent of the law review all of the factual issues and circumstances; derive a decision conclusive having fully examined and considered the laws appertaining to the circumstances. And yet in the Ruling of the Board of Commissioners of the National Elections Commission ignored these fundamental responsibilities of the Hearing Officer and ruled without any consideration of the evidence, testimonies and the law controlling. Therefore, APPELLANT excepts and tenders this Bill of Exceptions.
9. That the Board of Commissioners erred when it ruled and ignored the fact finding responsibility of the Hearing Officer which is cardinal under the law of the national Elections Commission NEC in that, the Hearing Officer must at all times exercise independence in his duties and findings as investigator. In the instant case, the Hearing Officer initial Ruling on the matter at bar was overturned by the Board of Commissioners with specific instruction to confine himself to the allegation of the pleading or complaint without any formal hearing, notifying said Hearing Officer to appear before the requisite forum prior to the mandate to overturn his decision. Another issue worth noting is that while the Hearing Officer exercising jurisdiction over the subject matter in his area of assignment, investigating electoral disputes between parties in District# 1, Grand Cape Mount County, Liberia, the Board ordered and appointed one Mr. Wallace to conduct new count of the same subject matter without any knowledge and consent of the Honourable Hearing Officer.

Appellant says that the act on the part of the Board of Commissioners of the National Elections Commission amounts to interference and a direct usurpation of the authority and power of the Hearing Officer which should not be countenance. Hence, this Bill of Exceptions for Your Honours' review and reversal.

10. That the Board of Commissioners erred when said Board *sua sponte*, without any notice or consent of the Hearing Officer, ordered and appointed a recount team, headed by NEC's Training Director, James Wallace to proceed to Electoral District #1 Grand Cape Mount County with instruction, to first cite all of the other representatives aspirants who were left out of the first recount and conduct a new recount at the exclusion of the Hearing Officer who has jurisdiction over the subject matter in which the order of the Board was exercised. This act on the part of the Board of NEC amounts to an acts of undermining, interference and usurpation of the duties and authority of the Hearing Officer which cannot and should not be countenance by all aspects of the law.
11. That further to Count ten (10) above, Appellant says that his perception of the act orchestrated by the Board of Commissioners to exclude the Hearing Officer from the new recount, ordered by the Board was not only intended to interfere with the investigation but rather solely designed to bring relief to the Board's interested candidate/aspirant because for the Board to have *sua sponte* appointed and authorized NEC's Recount Team to go within the jurisdiction of the Hearing Officer, unnoticed and conducted a recount while the subject matter is under the jurisdiction of the Hearing Officer of District# 1, Grand Cape Mount, Liberia is a travesty of justice and a violation of Article 3, Jurisdiction 3.2, Article 7 hearings 7.1, 7.6 and 7.7 of the Regulation of the National Elections Commission (NEC). This action on the part of the Board of NEC being improper and unlawful under our law, Appellant tenders this Bill of Exceptions for Your Honours' review and subsequent reversal of the Ruling of the Board.
12. That the Board erred when it failed to give relevance to the evidence adduced, specifically the record of count of polling place#0 1, Viankanway, Grand Cape Mount County, Liberia where instead of 305 persons that registered to vote, 319 persons voted during election day. Appellant says that the Board further stated in its Ruling that, because the record of count was signed by the Complainant and the Hearing Officer they were aware of the result herein and that the Hearing Officer again failed to include the said result in his Ruling. And for this reason, Appellant excepts to the NEC Board's Ruling on this issue because the assertion therein in said Ruling is baseless and unfounded for reason that at no time were the Appellant and the Hearing Officer aware of the result of the Ruling of the Hearing Officer, as alleged by the Board of the National Elections Commission. Hence, this Bill of Exceptions for Your Honours' review and reversal.

3. *That during the hearing, the Appellant adduced evidence in support of their side of the case including the Final Registration Roll (FRR) and the record of count, specifying the variance, and that the species of evidence herein were not denied or rebutted during the trial. The evidence further supported the fact that instead of 305 persons that registered to vote as required for by section 3.6 of the election law and the voter registration regulation of August 12, 2016 Article 22.4, 319 persons voted during the elections which by all lawful indications, supported Appellant's allegations to the effect that fraud and irregularities were proven by preponderance of evidence. This evidence being clear and convincing, the Board in its Ruling eschewed this fundamental fact and ruled, reversed the decision of the Hearing Officer without any legal reason to do so. Hence, Appellant tenders this Bill of Exceptions to review and reverse the decision of the Board. In its Ruling, the Board of Commissioners did not pass on this material issue and proceeded to violate the election law of Liberia and the Voter Registration Regulation. The Board having failed to adequately address and pass on this issue despite Appellant's argument at the Appellate hearing and that because the Board violated its own law and the Voter Registration Regulation, which renders the decision of the Board and adequate, improper and unlawful, Appellant tenders this Bill of Exceptions for Your Honours' review and subsequent reversal, said decision grossly impact the fairness. Freeness and transparency of the Representative and Presidential Elections of October 10, 2017.*
14. *That Appellant adduced pieces of evidence as well as testimonies of witnesses during the trial, and pursuant to which were all conceded by Appellee because during trial, those evidence or testimonies were never rebutted nor deny by the Appellee but that the Appellee in person of Bob Sheriff adduced similar evidence in support of Appellant's Complaint, which material issue, the Board upon review of the Ruling of the Hearing Officer, failed and neglected to pass on. Hence, the Ruling of the Board is irregular, improper and lacks transparency and credibility to be referenced in any quarter of our modern democracy. Therefore, Appellant tenders this Bill of Exceptions for Your Honours' review of the Ruling of the Board and subsequently set aside and reverse same.*
15. *That the Board of Commissioners committed reversible error when said Board in the face of glaring admission by witness Seade Y. Sessay, who testified during the hearing, on the 3rd day of November 2017 page 3, that "then we have some other from start to end, to polling place/1, there were some people names or their information was giving to polling #2 people could not find them and they turned them over to polling place #1 which we check up their record. We noticed that they were omitted names. And we added their names to the FRR and allowed them to vote." Appellant says that contrary to this testimony, the Board of Commissioners of the National Elections commission adopted (Regulation on the Polling and Counting of May 6, 2016, Article 3.2), which provides that "if the name of a person with a voter registration could be found on the FRR were he appear to vote, the presiding officer shall permit the person to vote if the person voter registration card is verified through the SMS verification system managed by the National Elections Commission."*

The Board of the National Elections Commission in its Ruling which reversed the decision of the Hearing Officer did not pass on the effectiveness of the Regulation as it is contrary to law, and how this SMS verification system imparted the October 10, 2017 elections, specifically with people, voters and electorates in the remote sector or places of no communication systems and electronic gadgets within the Republic. This glaring admission on the part of Appellee's witness having being ignored by the Board in its Ruling, Appellant tenders this Bill of Exceptions for Your Honours' review and subsequent reversal.

16. 16. Appellant says that the use of the SMS Verification System as enshrined in NEC's Voter Registration Regulation to verify whether a person holding a Voter Registration card but whose name was not on the FRR could be allowed to vote, is an recipe for fraud and irregularities. In the Board's Ruling which reversed the Ruling of the Hearing Officer did not pass on this material issue which by all indications leaves the entire process flawed, inaccurate and discredited. Appellant having argued and presented said issue to the Board, and that the Board having failed to pass on this evidence and its effect thereto, Appellant tenders this Bill of Exception for your review and subsequent reversal.
17. That the Board of Commissioners erred when it ruled, set aside and reversed the Ruling of the Hearing Officer on account that "the Hearing Officer ignored the allegation in the complaint to recount the votes at Viakanway and then failed to include in his Ruling the result of said recount which shows Mr. Sheriff with the highest votes, counsel only answer was that Viakanway formed part of Electoral District#1. The Board note that Viakanway and Bamballa are separate towns, in different locations in Electoral District #1 in Viakanway, Grand Cape Mount County, Liberia District #I comprises of 52 precincts, and that beside the polling place#1, complainant did not make any allegation concerning anyone for the other 51 precincts. Therefore, if the argument of the Appellee's counsel was right, the Hearing Officer could order the recount and rerun in any of the other precinct in other of the 51 precincts without any allegation being made in said area. We reject this argument of counsel for Appellee. It is clear that the complainant complaint was restricted to a polling place in Bamballa where Complainant alleged over-voting." Appellant says that this assertion and analogy in the Ruling of the Board of Commissioners is conspicuously ambiguous and unfounded because count two (2) of Appellant's Complaint which was significantly argued before the Board specifically states that "Ballot were not counted properly in said district" Appellant argued that District# I comprises of 52 precincts with Viakanway and Bamballa being a cogent part of said District and that issued of irregularities having being detected and observed in Viakanway it was only relevant as a matter of evidence to flag Viakanway as one of the places in District #1 in which flaws and irregularities were uncovered. Therefore, the Appellant in his best judgments used Viakanway and Bamballa precincts as key places that could considered in the establishment of proof and that

when testified to and proffered said evidence will support Appellant's allegation of fraud and electoral irregularities. The Board having downplay and failed to pass on the issue that Viakanway and Bamballa are two key sectors of District #1, Grand Cape Mount County, Liberia is an attempt on the part of the Commission to hide the truth and conceal relevant evidence which has the potential to put this matter squarely at the feet of the National Elections Commission (NEC) that fraud and irregularities were established during the October 10, 2017 elections. Hence, for the Board having failed to pass on this crucial issued Appellant tenders this Bill of Exceptions for Your Honours' review.

18. That the Board erred when it ruled stating therein that "**Complainant did not produce evidence to prove it allegations, and that the Hearing Officer acted contrary to the evidence presented and law controlling**". Appellant says that contrary to the assertion contained in the Board's Ruling which relates to the failure of Appellant to prove the allegations of over voting, fraud and electoral irregularities, Appellant says that during trial he produced cogent evidence in support of his side of the case; unrebutted and uncontroverted by the Appellee to the effect that both Bamballa and Viankanwey were flawed thereby leaving to the reckless and wanton alteration, tampering and use of the FRR, Final Registration Roll and the flagrant conduct of over voting by illegitimate voters.

The Board in its Ruling overlooked and overruled this cogent evidence and ruled against the Appellant who had adduced evidence to support and substantiate the allegation herein. Hence, this Bill of Exceptions for Your Honours' review and reversal.

19. The Board of Commissioners erred in its Ruling in that, all of the laws cited and relied to reverse the decision of the Hearing Officer of the National Elections Election are flagrantly inapplicable to the facts and circumstances of the case at bar. Appellant says further that The Ruling of the Board of Commissioners does not reflect instrument of credibility and transparency, in that, the laws cited and relied on by the Board to have ruled and set aside and reverse the decision of the Hearing Officer and grant Appellee appeal, is totally in-application and a misunderstanding of our law in this jurisdiction, because there exists no direct relationship between the laws and facts controlling in the case at bar. Hence, this Bill of Exceptions for Your Honours' review and subsequent reversal. Appellant further says that, a judgment must be conclusive in that its finding must be supported by sufficient evidence on the records considered as a whole, but to the contrary, the judgment entered by the Board of Commissioners of the National Elections Commission, setting aside and reversing the Ruling of the Hearing Officer is totally at variance with the facts and laws controlling, hence, this Bill of Exceptions for Your Honours' review and subsequent reversal.
20. That the Board of Commissioners erred when it entered Ruling against the Appellant and the Hearing Officer despite the pieces of evidence adduced at trial. Appellant says that, the failure of the Appellee to rebut, contradict and controvert the

pieces evidence adduced by Appellant, constituted admission of the facts which Appellant sought to prove. More specifically, Appellee did not produce any evidence to contradict or rebut Appellant's evidence that the FRR, as a master registry of voters conforms to the number of persons that voted during the day of election. Appellant says that, the Appellee in these proceedings did not controvert the issue raised in both Bamballa and Viakanway but the only point he was interested and raised during the trial and supported by the Board of Commissioners of the National Elections Commission was the inconceivable perception that Viakanway where there were proof of massive electoral fraud and irregularities, was not a part of Appellant's Complaint before the National Elections Commission. This inference is totally farfetched because both Viakanway and Bamballa are bonifide towns within the geographical location of District# 1, Grand Cape Mount County, Liberia. Therefore, for the Appellee and the National Elections Commission to jointly concoct and eschewed the fact that Viakanway is not a part of Appellant's Complaint is totally an attempt on the part of the Commission to evade justice and fair play in these proceedings. Hence, Appellant tenders this Bill of Exceptions for Your Honours' review and reversal.

21. That the Board of Commissioners of the National Elections Commission erred when it flagrantly ignored the glaring admission of Appellee's first witness, Mr. Sam Taylor, Election Supervisor of Electoral District# 1, Grand Cape Mount County, Liberia, when he took the stand and a question posed to him: "Mr. witness, the Plaintiff in this case when they took the stand they made several allegations to include that polling place #1 in Viakanway had 305 registered voters and that at the close of the polling more than 305 voted at that center. You have been called as a supervisor to NEC polling watcher who was assigned at that center, what you have to say? Thank you counsel, 305 was provided into the FRR and 305 voted clearly. Appellant further says that, contrary to the testimony of the witness several persons including Kemah Ville, age 46, female, Mohammed Kallon age 51, male, Maima Seimavula age 76 and others whose names and photos are placed on the FRR of polling place #1, Viakanway, District#1, Grand Cape Mount County, Liberia were identified during the trial as some of the people who were disenfranchised and prevented from voting during the day of elections in violation of their constitutional rights, hence, Appellant tenders this Bill of Exceptions for Your Honours' review and reversal.
22. That the Board of Commissioners of the National Elections Commission erred when it ruled and ignored a fundamental fact that Appellee's witness, David B. Sando, Presiding Officer for polling place#4 who was previously qualified and testified during the pretrial conference was also qualified at the trial de novo and that prior to him taking the stand to testify counsel for Appellee moved court to dispense with Mr. Sando who had previously provided information about the circumstances at polling place#4 at Bamballa to the effect that Sao Madave turned Mamie Kamara double voted. Appellant says that, the Appellee having being afraid of any full disclosure by witness

Sando, Appellee declined and dispensed with said witness having being qualified and placed under oath to testify to the truthfulness of the situation at Bamballa, Polling Place #4 based on the certainty of his knowledge. Appellant further says that, the Board of Commissioners having declined to meticulously examined the evidence adduced at trial as well as the testimonies of the witnesses prior to its Ruling, said Ruling lacks credibility, transparency and sufficiency, hence Appellant tenders this Bill of Exceptions for Your Honours' review and reversal, because the determination of a matter by a sifting judge must be done based on scrupulous examination of the case at bar and the sufficiency of the evidence thereof.

23. *That the Board of Commissioners of the National Elections Commission erred when it failed and neglected to fully examine and determine the factual issues that were raised by the Appellant, particularly the issue of the overstating voter roll and the double voting in Viakanway and Bamballa, respectively prior to its Ruling in that, the BOC's Ruling which set aside and reversed the decision of the Hearing Officer grossly evades the fundamental principle of law, especially so, when the Ruling failed to take into cognizance the sufficiency of the evidence proffered by the Appellant contrary to which the Board of Commissioners ruled.*

The Ruling having failed to properly examine the facts and circumstances of the case its determination therein is baseless and lacks any legal foundation, hence, this Bill of Exceptions for Your Honours' review and subsequent reversal.

WHEREFORE AND IN VIEW OF THE FOREGOING LAWS, FACTS AND CIRCUMSTANCE. *Appellant respectfully submit this Bill of Exceptions for the NEC Board's approval as provided for by law for perfection of his appeal to the Honourable Supreme Court of Liberia for review of the NEC Board's Final Ruling.*

*Respectfully submitted:
Boima J. Manobah/UP Agent
Unity Party, District #1,
Grand Cape Mount County.*

*Respectfully submitted:
THE ABOVE NAMED APPELLANT
By and Thru his Counsel:
JONES & JONES.*

As we earlier mentioned in this Opinion, we herewith reproduce, in substance, the Final Ruling of the Board of Commissioners. This is proper as it is this Ruling, having been attacked by the appellant, that forms the core and central focus of this Court's appellate review and examination.

For the benefit of this Opinion, we hereby quote, in substance, said final ruling of the Board of Commissioners to wit:

"The record shows record shows that on October 31, 2017, the Hearing Officer commenced a new trial, in which Mr. Sheriff was made additional defendant. Complainant/appellee called four witnesses in persons of Boima Manobah, Simeon Taylor, Amos Kromah and Ben G. Kamara. Defendant/appellant called four witnesses in persons of Bob Sheriff, David Sando, C.D.Y. Sesay and Sam S. Taylor.

At the close of the production of evidence by both parties...when the parties appeared before the Hearing Officer for closing statements, the Hearing Officer ordered Elections Magistrate David Armah to recount the votes cast at polling place #1, voting precinct l205l, Viakanway, Grand Cape Mount County. Counsel for defendant objected on ground that the parties had closed evidence; that no such application was made by either of the parties; and that neither was there any such request in the complaint or the mandate of the Board for recounting votes from Viakanway. The Hearing Officer overruled defense counsel's objection and ordered the recount proceeded with.

While in the presence of the Hearing Officer, the parties and others, the Elections Magistrate carried out a physical recount which result showed that Independent candidate, Bob H. Sheriff, obtained a total of 253 votes at the said polling place in Viankanway, while Unity Party's candidate, Simeon Taylor, obtained 40 votes. Strangely, the Hearing Officer did not include (in his final ruling) the outcome of the very recount he had ordered. Upon information that the Hearing Officer had ordered a recount of the votes at the said polling place and restricted same to the respective votes obtained by candidate Sheriff and candidate Taylor, a recount team, headed by NEC's Training Director, James Wallace, was authorized by the Board of Commissioners to proceed to electoral district #1, Grand Cape Mount County with instruction to first cite all of the other representative aspirants who were left out of the first recount and then conduct a new recount. The said recount was conducted and the result shows that Independent candidate Bob H. Sheriff obtained a total of 252 votes, as one of the initial votes recorded for Mr. Sheriff was declared invalid during the recount. Mr. Simeon Taylor obtained 40 votes. For the benefit of this decision, we herein produce the strict record of the count which is signed by complainant Boima J. Manobah.

Although the above record of the recount was signed by the complainant and the Hearing Officer was aware of the result therein, the Hearing Officer again failed to include the said result in his final ruling.

During argument before the Board, counsel for appellee admitted that the Unity Party's agent signed the record of the count, and stated that complainant does not -have "any problem with the votes each candidate obtained at said polling place. Counsel's only contention, however, is that 319 persons voted at the said polling place in Viakanway and that 305 persons are registered there. When questioned why the Hearing Officer elected to ignore the allegation in the complaint; recount the votes at the Viakanway polling and then failed to include in his

ruling the result of the said recount which shows Mr. Sheriff with the highest votes, counsel only answer was that Viakanway forms a part of electoral district #1. The Board notes that Viakanway and Bamballa are separate towns; in different locations in electoral district #1, Grand Cape Mount County. The Board further notes that electoral district #1 comprises 52 precincts; and that besides a polling place in Bamballa, complainant did not make any allegation concerning any one of the other 51 precincts, including Viakanway. Therefore, if the argument of appellee's counsel were right, the Hearing Officer could order a recount and rerun in any of the other 51 precincts without any allegation being made against said areas. We reject this argument of counsel for appellee. It is clear that complainant's complaint was restricted to polling place in Bamballa, where complainant alleged over-voting.

The record shows, however, that complainant did not produce evidence to prove its allegations, and that the Hearing Officer acted contrary to the evidence presented and law controlling.

This Board says that the complainant having failed to produce evidence to prove its allegations, this appeal must be sustained. For reliance, see: *Management of the Forestry Development Authority (FDA) v. Walters et al*, which held that "it is evidence alone which enables the court, tribunal, or administrative forum to pronounce with certainty the matter in dispute"; *Sando D. Johnson v. National Elections Commission et al.* (decided December 16, 2005), which held that a one who "challenges an election result must overcome a strong presumption in favor of the validity of the election process and results."; *Kuku Dorbor et al v. National Elections Commission* (decided 2012, which held that election results are presumed to be valid until shown otherwise.

Accordingly, the re-run ordered by the Hearing Officer in this matter, being erroneous and in violation of the expressed mandate of the Board of Commissioners, is hereby reversed.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the Hearing Officer in these proceedings is hereby reversed. The result of the recount authorized by the Board of Commissioners which shows Mr. Bob H. Sheriff with 252 votes and Mr. Simeon B. Taylor 40 votes at Polling Place # 1, precinct 12051, Viakanway is hereby adopted, confirmed and affirmed. Mr. Bob H. Sheriff, having obtained the highest votes in the October 10, 2017 Representatives election in electoral district # 1, Grand Cape Mount County, is hereby declared the winner of the said election. AND IT IS HEREBY SO ORDERED."

We have carefully reviewed the records of this case as transmitted to this Court and duly considered the Ruling of the Board of Commissioners, aforementioned. It appears to us that the appeal now before us raises one salient question; that is,

whether the Board of Commissioners' Final Ruling of December 1, 2017, is justified by the facts revealed by the records and the laws controlling and therefore need not be disturbed. We will also traverse a few collateral questions during this exercise.

The substantive question the appellant raised during Hearing was fraud. Indeed, we see a reference to cheat in the process in almost every count of appellant's twenty three (23) count bill of exceptions. Along this line, the appellant has forcefully contended that had fraud not been massively committed in Viakanway, Polling Place #1 which inure to the benefit of Co-appellee Bob Sheriff, the outcome of the Representative election would have been different. Over voting orchestrated at Polling Place # 1, Viakanway resulted, according to the appellant, to Co-appellee Sheriff receiving many votes. These votes, tainted with fraud, he said culminated in Co-appellee Sheriff being the recipient of the highest votes and consequently being declared as the winner of the Representative Seat of District 1 (one) of Grand Cape Mount County by the Board Commissioners of the NEC. Further contending, it is appellant's position that the Board of Commissioners committed reversible error when said Board neglected and refused to carefully examine the factual issues appellant raised, particularly the issue of overstating voters roll and the double voting in Viakanway and Bamballa.

These are serious allegations which deserve careful appellate review and examination. But serious as these allegations are, they remain nothing but mere assertions unless supported by the evidence. *Mano Insurance Corporation v. Picasso Cafeteria*, 38 LLR 37, 48 (1995); *Knowlden v. Reeves*, 12 LLR 103, 108 (1954). We must here reiterate that this Court of justice acts only on evidence; without the evidence, allegations no matter how well they are laid out, are unsustainable in a court of law. In the case, *The Management of the Forestry Development Authority (FDA) v. Walters and the Board of General Appeals*, this Court articulated that "[i]n 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." 34 LLR 777, 783 (1988). This is especially the case in electoral disputes as the results/outcomes of public elections are presumed to be correct and to be a true reflection of the will of the electorate.

This Court, in the case, *Sando D. Johnson v. National Elections Commission et al.*, Supreme Court Opinion, October Term, 2005, held that "*challenges to an election result must overcome a strong presumption in favor of the validity of the election process and results.*" So let us therefore return to the certified records and review the evidence presented by the appellant in support of these grave allegations.

Our examination of the records shows that there was a total of 52 (fifty two) Polling Stations in Electoral District 1 (one), Grand Cape Mount County. It is noteworthy to indicate that Appellant/Complainant Manobah lodged a formal complaint claiming to be representing the political interest of the Unity Party. In the complaint, he averred that some Poll Watchers had brought to his (Manobah's) attention that a number of persons were allowed to vote more than once and that one of those violators was infact arrested during the process. We desire to remark here that the said complaint expressly limited itself to, and specifically named only Bamballa Center of District # 1 (one), Grand Cape Mount County, as the polling station where over voting reportedly took place. The complaint requested, again in the name of Unity Party, "*for recount in Electoral District # one, and also re-election of the Bamballa Center.*" In other words, the formal complaint neither made any mention nor requested review of the result of any other center or polling station in Electoral District # 1, Grand Cape Mount County. This is important if only to make the point that from the commencement of the first hearing conducted by the Hearing Officer, Attorney Taweh, in this case up to the prosecution of this final appeal before the Supreme Court, Appellant/Complainant Boima J. Manobah was duly represented by a Counsellor of this Bar. This is the reason why this Court wonders how the complainant became a "*Representative*" and protector of the Unity Party interest in this matter; one may ask by what authority.

The law in this jurisdiction requires that one who presents himself/herself as a representative of an institution must exhibit instrument of authorization as evidence to act in that representative capacity. In the case, *Citizens Solidarity Council v. The Government of Liberia*, this Court held that "*even if it were established that the one instituting the action is the Chairman of the Board of an organization, the Chairman would still need authorization from the organization to institute a law suit in such representative capacity. Normally, a board resolution giving authority would issue.*"

Supreme Court Opinion, March Term, 2016; *Concerned Sector Youth v. LISGIS et al.*, Supreme Court Opinion, March Term, 2010. But the herein appellant failed to do so. Even the letter subsequently and irregularly proffered by Counsel for the appellant/complainant, aside from being presented offensively late, does not, in our opinion, meet the standard set by this Court as evidence of conferrer of that authority. Hence, appellant would have been properly disqualified and his complaint dismissed on that count. This legal blunder, notwithstanding, we perfectly agree with counsel for appellant that the lawyer for Co-appellee Sheriff, on the other hand, miserably failed to raise this important issue at the time of service of the responsive pleading, as stipulated by statute. This neglect and failure by counsel by Co-appellee to challenge the standing of Appellant/Complainant Manobah at such time was fatal, and the subsequent attempt by the lawyer to have the complaint dismissed for lack of standing is prohibited by law.

On the substantive issue of over voting, Appellant Manobah told the Hearing that there was over voting at various centers. He claimed that this led to protests at those centers. We note that in his formal complaint filed on October 12, 2017, Appellant/Complainant Manobah specifically named Bamballa as the center where over voting occurred and requested for "*recount in Electoral District #1 (one), and also re-election [in] Bamballa Center.*" This is Boima J. Manobah's testimony in chief in this respect:

"...After assigning the various poll watchers across the county, observers reported or brought to my attention issues from District One, to be specific Bamballa Precinct. At Bamballa Precinct 12016, things went on that were not supposed to go on- such as a. people voting twice; b. people coming to vote where they are not to vote. For instance, at Bamballa Precinct, one person was caught voting twice and turned over to the officer assigned there and even the Presiding Officer is aware....The person escaped during the argument. ...that is, PP#1 has 305 voters registered.

From this number, 319 voted for representatives and 321 vote for the Presidency. That prompted me to write a complaint....I will be happy were NEC to conduct a recounting or if possible a re-election at the Bamballa Precinct 12016."

This narrative was basically recounted by the other three witnesses, Simeon Taylor, Amos Kromah, and Ben G. Kamara, who also deposed at the hearing in favour of the appellant/complainant. In addition, appellant presented an

instrument, titled "*House of Representatives Record of the Count*" which was admitted in evidence." This record shows that a total number of votes, including valid and invalid votes, was 319 (three hundred nineteen) votes.

Co-appellee, for his part, also presented four (4) witnesses. This is the explanation provided by the first witness, Bob Sheriff. The witness was asked as follows:

Ques: *"Plaintiff Manobah took the stage and made wide allegations against you on over voting at centers and protests at those different centers, to be specific, Bamballa in his complaint. When he took the stand along with one of his witnesses, Simeon Taylor, who was also your advisor during said elections, they made the allegation of voting at the centers. You have been called as a defendant and candidate-elect; what have you to say regarding this allegation?"*

Ans: *First, this comes to me as a surprise. After the October 10 elections in Bamballa with the total number of voters in the tune of 1951, no complaint was filed; all parties representatives at the precinct signed, only to hear that that somebody filed a complaint; that said complaint was heard and I was not part of [said investigation] [although I was] the candidate that scored the highest mark in the process. [I believe] anything with number has to be done in our presence [so we can] see what is going on. And I think, I should have been consulted but because I was not consulted I raised the issue with the NEC to explain that part to me.*

On the issue of over voting, this was the explanation provided by the witness:

"In Bamballa Center, 1951 (one thousand nine hundred fifty one) registered to vote and 1647 (one thousand six hundred forty seven) voted. So I don't understand why the NEC will come to me and talk about over voting. I know over voting means more than 1951 (one thousand nine hundred fifty one) voted; when [infact] 1647 (one thousand six hundred forty seven) voted. This leaves 608 (six hundred eight) persons who didn't even vote. Then where is the over voting issue now coming from? So I don't understand that part. Then when you talked about Viakanway, in Viakanway, according to the citation, I think 612 (six hundred twelve) persons should have voted; but instead, 531 (five hundred thirty one) persons voted. So again I don't know where the over voting comes from. So for all these, I can't say, except the NEC explains that part to me."

Ques: *What did you do at the close of the elections?*

Ans: At the close of the elections, all poll watchers, including observers of political parties, signed the document [to indicate] that truly that is the actual figure they got from there.

A. Yes, they are.

Q. Please take a look at these documents and say which statement and whose signatures and names appeared there on forth?

Q. On October 10, 2017, an election day, were in any point in time at the close of the poll, was there anything about complaint that you knew of?

A. Absolutely not.

Q. Were you also informed by your poll watchers, or agents at the centers about anyone refusing to sign?

A. My answer to you was no. No complaint filed, none of my representatives informed me that there was a complaint, absolutely not. All I knew everyone consented and that was why they signed.

At this stage, defendant counsel rest with the witness on the stand with. I submit.

Cross examined by the plaintiff counsel:

Q. Mr. Witness you did testify that the minutes of voting is, when more than the number of vote in a particular polling place, am I correct?

A. Wrong

Q. For the benefit of the hearing, can you say what do you mean by over voting?

A. Over voting means to me, the NEC did give us a map indicating how many persons supposed to vote to a particular center. Indicating 1951 registered in Bamballa and 1647 voted.

Q. Mr. Witness, in your testimony, you also stated that at Viakanway, 612 persons were registered voters, that during the day of elections 531 voted out of the number, am I correct?

A. Correct

Q. Can we then say, Mr. Witness, that, 81 persons did not vote at the particular center?

A. Not my responsibility.

Q. Did you have all your representatives posted at polling place #4 in Bamballa?

A. One (1).

A. Now per our county level, our recruitment process is being done by electoral districts, District #1, all those poll workers, that were being recruited were from District #1.

There were laws that provide that, once you are on NEC operation, to where you are assigned, you get the right to vote there for President and Representative. So it is in the case that five (5) poll workers were assigned to polling place #1 and they voted to that particular polling place #1 regardless of where you registered and we also had some security officers that we assigned to that particular polling place and they are on NEC operations and they also voted to that particular polling place.

In other words, appellant failed to show, to the satisfaction of a court of justice, any semblance of evidence that fraud was perpetrated at the polling places alleged, or that persons voted in excess of the registered number of voters, whether in Bamballa or in Viakanway. Appellant failed to provide any evidence in substantiation of this grave allegation of over voting.

As can be seen, the testimonies offered by Co-appellee Bob Sheriff and other witnesses as regard over voting were not refuted; hence stand admitted as matter of law. In the case, *Davis v. Davis*, in which the party respondent/appellant failed to disprove the testimony of damaging character made against said party, the Supreme Court concluded and accepted said testimony to be true and correct. 19 LLR 150, 155 (1969). While the testimonies offered by Co-appellant Bob Sheriff and other witnesses as regard the over voting spoke generally of the total votes cast and which showed that in fact there was generally no over voting, it is notable that the appellant made no attempt to refute the said testimonies; hence, again from the general perspective of the allegation of over voting, the failure by the appellant to refute or rebut the said testimonies stands as an admission to the truthfulness of the statements made by the witnesses as a matter of law. Thus, as to any allegations of voting generally which exceeded the total number of registered voters, we conclude that the allegation is both factually and legally baseless and therefore cannot be sustained.

More specifically, the appellant alleged that at a particular polling center, that is at the Viakanway polling center # 1, the number of votes cast were 319 when in fact at the said polling center, there were only 305 registered voters. In response to the said allegations, counsel for appellee intimated, and counsel for the appellant did not dispute, that at the named location, there was only one registered center, which was divided into two polling places in the same building; and that while it was true that one of the polling places had 305 voters on the list, the other polling place had 307 voters on the list. The explanation was that State security personnel numbering 5 were allowed as per the voting regulation of the NEC to vote at the polling center. Persons who had actually registered at the center but whose names could not be found on the list at the polling place but were in fact on the list at the associated polling place, were allowed to vote.

This Court notes that such should not have been the case and that it was error to allow such votes. However, given that it was the same voting registered center which had only been divided into two, coupled with the fact that the names of the voters were found on the list of one of the polling places constituting the one voters' register center and which accounted for the small difference, the same cannot be characterized as over voting in the true sense of the word.

Moreover, the figure is so nominal as not to make a material difference, hence, that small difference is insufficient to alter the results of the election held in that constituency. The contention is therefore not sustained.

In other words, appellant failed to show, to the satisfaction of a court of justice, any semblance of evidence that fraud was perpetrated at the polling places alleged, or that persons voted in excess of the registered number of voters, whether in Bamballa or in Viakanway.

Appellant failed to provide any evidence in substantiation of this grave allegation of over voting. Therefore, the assertions made by appellant constitute simply a part of a barrage of allegations of fraud and irregularities which have been largely levied against the processes of public elections in this jurisdiction often without a scintilla of supporting evidence. We cannot agree with the appellant in this respect.

During argument of this case before this Court, issues respecting transcribing and preserving of the minutes and other relevant records of proceedings had before elections officials were again raised. Counsel for Co-appellee (one of the contestants) was asked about certain records in support of a point he was trying to make. He answered that those records were made during the proceedings conducted by NEC authority. Pressed further with the question; "*why you did not inform the Supreme Court that the records were not complete*"? Answered: "The file had already been forwarded to the Supreme Court and we did not know the content of the records, Your Honours."

In the face of this concern, this Court must give some attention to this matter that has become a central concern in almost every election case brought before the Supreme Court on appeal from the National Elections Commission. We are making reference to transmission of records from the Commission to the Supreme Court.

Party litigants have often complained about transmission of "*full records*" of proceedings had before election authorities and reviewed by the Board of Commissioners in exercise of its appellate authority. We must infact indicate here that there has been a few instances evidencing that this concern is legitimate. But it is well to also indicate that our review of the procedure currently in place at the National Elections Commission appears not to be adequately responsive to this important question.

It appears to this Court that a method does not exists which ensures that all the parties to a proceeding, including NEC officials and counsels representing the parties, work together by checking and scrutinizing the records, thereby guaranteeing the transcribing and the transmission of "*all the records*", not some of them, to the Honourable Supreme Court. Putting such a mechanism in place would be in fulfillment of Chapter VIII, Article 83c of the Liberian Constitution (1986), as amended. This provision imposes a duty on the National Elections Commission to "*forward all the records*" in the case to the Supreme Court..." [Our Emphasis].

WHEREFORE, and having reviewed the records in this case and duly considered the laws appertaining thereto, it is our considered view that the Final Ruling of December 1, A.D. 2017, entered by the Board of Commissioners, reversing the ruling made by Hearing Officer, Attorney Joseph J. Taweh, same being in flagrant disobedience of the mandate issued by the Board of Commissioners, need not be disturbed. Accordingly, the Board of Commissioners' Ruling is therefore affirmed in its entirety.

The Clerk of this Court is hereby ordered to send a mandate to the Board of Commissioners of the National Elections Commission to the effect of this Judgment. And it is so ordered.