



CHIEF JUSTICE
SUPREME COURT OF LIBERIA



JUDICIAL BRANCH
TEMPLE OF JUSTICE
MONROVIA, LIBERIA

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

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEH.....ASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: PHILIP A.Z. BANKS, IIIASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOHASSOCIATE JUSTICE

National Elections Commission (NEC) and the
Board of Commissioners of the Republic of Liberia
..... Movant/Appellee

Versus

Charles Walker Brumskine, Harrison S. Karnwea,
Presidential & Vice Presidential Candidates at the
October 10, 2017 elections, and the Liberty Party
..... Respondent/1st Appellants

MOTION TO DISMISS APPEAL

GROWING OUT OF THE CASE

Charles Walker Brumskine, Harrison S. Karnwea,
Presidential & Vice Presidential Candidates at the
October 10, 2017 elections, and the Liberty Party
..... 1st Appellants

AND

Joseph Nyumah Boakai and James Emmanuel Nuquay,
Presidential and Vice Presidential Candidates at the
October 10, 2017 Elections and the Unity Party, all of
Liberia..... 2nd Appellants

APPEAL

Versus

National Elections Commission (NEC)
..... Appellee

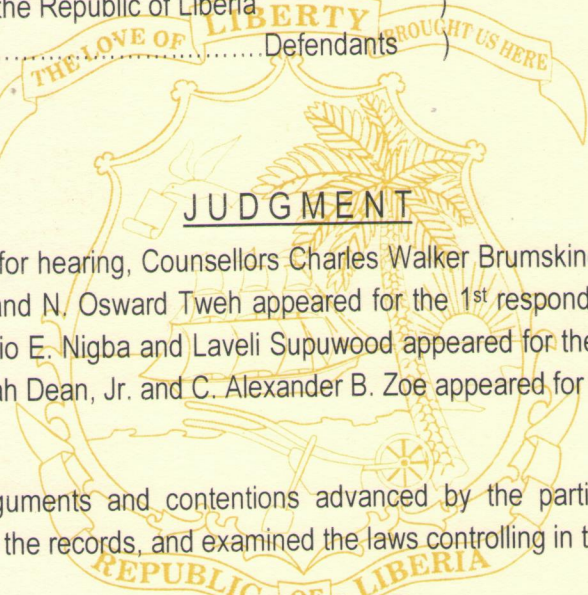
GROWING OUT OF THE CASE
 Charles Walker Brumskine, Harrison S. Karnwea
 Presidential & Vice Presidential Candidates, and
 All Representative Candidates of Liberty Party..1st Complainants

AND
 Joseph Nyumah Boakai and James Emmanuel Nuquay,
 Presidential and Vice Presidential Candidates at the
 October 10, 2017 Elections and the Unity Party, all of
 Liberia.....2nd Complainants

Versus

The National Elections Commission (NEC) and the
 Board of Commissioners of the Republic of Liberia
 Defendants

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) VIOLATION OF THE CONSTITUTION AND
) ELECTIONS LAW, FRAUDULENT ACTS
) AND GROSS IRREGULARITIES DURING
) THE OCTOBER 10, 2017 ELECTIONS



JUDGMENT

When this case was called for hearing, Counsellors Charles Walker Brumskine, James G. Innis, Jr., Powo C. Hilton, Kuku Y. Dorbor and N. Oswald Tweh appeared for the 1st respondents/appellants; Counsellors Benedict F. Sannoh, Snonsio E. Nigba and Laveli Supuwood appeared for the 2nd appellants. Counsellors Joseph N. Bliidi, Frank Musah Dean, Jr. and C. Alexander B. Zoe appeared for the movant/appellee.

Having listened to the arguments and contentions advanced by the parties, reviewed the facts and circumstances presented in the records, and examined the laws controlling in the case; it is hereby

ADJUDGED:

That the representative candidates of the 1st appellants, although having excepted to the final ruling of the Board of Commissioners of the National Elections Commission (NEC) and announced an appeal therefrom to the Supreme Court, they having taken no further steps to perfect the appeal in keeping the law on said matter, the motion to dismiss the appeal filed by the NEC as to those representative candidates is deemed abandoned; the motion to dismiss the appeal is therefore denied and dismissed;

That the Chairman of the NEC, having been shown to have made statements and utterances on the elections, while the complaints filed by the appellants before the NEC were still being investigated and awaiting disposition, and which could be viewed as bias and prejudicial, he should have recused himself

from presiding over and sitting on the hearing of the appeal. The Board of Commissioners was therefore in error in denying the motion of recusal filed by the appellants.

That Fraud is a generic term which embraces all the multifarious means which human ingenuity can desire and are resorted to by one individual to gain an advantage over another by false suggestions or by suppression of the truth. Fraud may be established not only directly but by inclusive circumstances which by their weight may constitute proof; from the facts and circumstances of the instant case, the 1st and 2nd appellants established by proof that fraudulent acts were perpetrated at a few polling centers during the Presidential and Representatives Elections conducted on October 10, 2017.

That the 1st and 2nd appellants established, also, that there were some irregularities and violations of the New Elections Law as well as the Rules and Regulations of the NEC in the conduct of the 2017 Presidential and Representatives Elections;

That notwithstanding our findings that indeed there were some irregularities, fraud, and violations of the New Elections Law, as well as the Rules and Regulations of the NEC, we hold that there is no evidence to show that those violations were in such magnitude that they rose to such level to warrant setting aside the results of the Presidential and Representatives Elections held on October 10, 2017, and ordering a re-run.

That this Court has said repeatedly that parties making allegations are required to present evidence to sustain the whole and not just a fraction of the allegations. In the instant case, the appellants presented some evidence in respect of certain violations; they failed to show, however, that the evidence pervaded the entire spectrum of the elections throughout or in a considerably wide or most parts of the country. This had the effect of substantially discounting the votes of the appellants and that absence such violations and irregularities, the appellants would have been placed differently than how the NEC placed them;

That we have not seen from the records that the appellants demonstrated that there was a conspiracy by the NEC as an Institution, or that the NEC sanctioned the conduct of those persons who were alleged to have committed elections violations or irregularities. We do not believe that the evidence reached that threshold. As important as the evidence was, the fraud and irregularities complained of and shown by the testimonies of the witnesses were limited to the generality of the elections rather than indications of widespread intentional gross conspiracy conduct by the NEC as an institution. The evidence did not point to a single candidate benefiting from the irregularities or fraud, or that the irregularities and fraud were orchestrated for the sole purpose of benefitting a particular candidate.

WHEREFORE AND in view of the foregoing, it is the considered opinion of this Court that the ruling of the NEC's Board of Commissioners declaring a run-off election is hereby affirmed, however, with modifications as follows:

- a. That the NEC is mandated and ordered to fully comply with the standards of publications of the FRR as in keeping with law and as discussed in the Opinion;
- b. That the NEC is mandated to conduct a full clean-up of the FRR to have it comply with the provision of the law;
- c. That the FRR be made available in published hard-copies to all Election Magistrates and polling places across the country in accordance with law prior to any run-off election being conducted;
- d. That given the fact that the FRR is the only electoral document that speaks to the eligibility of voters, the NEC is hereby prohibited from permitting anyone whose name is not found on the FRR to vote;
- e. That any addendum to the FRR be limited to only those listed in the NEC's polling and counting manual;
- f. That poll watchers who are not registered at their places of assignment and whose names are not on the FRR should not be allowed to vote;
- g. That the Chairman and members of the Board of Commissioners of the NEC and any staff of the NEC are hereby prohibited from any public or other pronouncements and utterances relating any matters which may grow out of the run-off election or any statements in regard to any complaint filed with the NEC, as could create any semblance of bias, prejudice or view of the case.
- h. That the stay order ordered issued on October 31, 2017, growing out of the writ of prohibition filed by the 1st appellants, is hereby lifted and the NEC is ordered with the scheduling of the run-off election in accordance with the Constitution and the New Elections Law.