

30-05-2023

IN THE SUPERIOR COURT OF JUDICATURE, THE SUPREME COURT (CIVIL
DIVISION) SITTING IN ACCRA ON TUESDAY THE 30TH DAY OF MAY, 2023.

CORAM: OWUSU (MS) JSC (PRESIDING), LOVELACE-JOHNSON, PROF. MENSA

–

BONSU, ASIEDU & GAEWU JJSC

WRIT

J1/11/2022

MICHAEL ANKOMAH NIMFAH

VRS

1. JAMES GYAKYE QUAYSON
2. THE ELECTORAL COMMISSION
3. THE ATTORNEY – GENERAL

CONTEMNOR: DR. MICHAEL KPESSA WHYTE

Parties

Contemnor present

Lawyers

Dr. Justice Srem Sai for the Contemnor with Godwin Tamakloe.

Contemnor in the Docket

Summons read to the Contemnor in open Court

Plea: - Guilty

BY COURT

The Respondent is found guilty on his own plea and is convicted accordingly. Counsel for the Respondent pleads for mitigation saying the Respondent has since written a letter of Apology to the Acting Chief Justice. This morning too he has apologized in the Ghanaian Times. Further, the Contemnor pull down tweet from his page and published an apology about three times on his tweeter handle using the same medium. Prays that in all humility and sack cloth to plead for mercy and clemency from the seat of Justice. The Respondent is also undertaken that such a regrettable action would never happen again. The Contemnor commits to defend the integrity of the Courts the Judges and the entire Judiciary.

Barimah Yaw Kodie Oppong, a lawyer at the bar puts in a plea in mitigation for the Respondent.

BY COURT

Judgment of the Court is unanimous.

A few minutes ago, we found the Respondent guilty on his own plea and convicted him accordingly. We then rose to consider our sentence and we proceed to do so now.

Before passing sentence, we have taken note of the remorse shown by the Respondent in his letter of Apology to the Acting Chief Justice through the Judicial Secretary dated 25th May, 2023 which has been placed before us. We take particular notice of paragraph 4, 5, and 6 which read:

4. Sincerely, the tweet was not done with the intent to scandalize or denigrate a revered institution such as the Supreme Court of Ghana for which I have tremendous amount of

respect and administration. These are consequences I never intended, although I do accept responsibility that, I could have exercised better judgment in my choice of words.

5. Please permit me to state unequivocally that I have no reason to slander our Supreme Court and sincerely apologize unreservedly for any Pain and discomfort my tweets may have caused the Chief Justice, the Supreme Court and the entire Judiciary.

6. I hereby retract the tweet in question accordingly, the tweet has been deleted completely and I pray for the forgiveness.

The power to commit for contempt is an age –old tool to protect the dignity of the administration of justice. In the case of **The REPUBLIC vs LIBERTY PRESS LTD AND OTHERS [1968] GLR 123 -138** where the Respondents were attached for contempt for printing and publishing an article about a criminal appeal pending before the Court of Appeal. In delivering the Judgment of the case referred to supra, **AKUFO – ADDO C.J**, had this to say. “I need hardly say that the judiciary has never claimed to be above criticism. Indeed I have on more than one occasion stated in public that the judiciary, like any other democratic institution, must justify its continued existence. This implies that its action and conduct must be subjected to the same measure of public scrutiny as any other governmental institution. Justice it has been said, is not cloistered virtue and those who have the responsibility to dispense justice will certainly not want to live in Cloisters. But the important position of the jury in any democratic set up must be fully appreciated. Performing as they are called upon to do the scared duty of holding the scales between the Executive power of the State and the subject and protecting the fundamental liberties of the individual, the Courts must not only enjoy the respect and confidence of the people among whom they operate, but also must have the means to protect that respect and confidence in order to maintain their authority. For this reason, any conduct that tends to bring the authority and administration of the law into disrespect or disregard or to

interfere in any way with the course of justice becomes an offence not only against the Courts but against the entire community which the courts serve.

Such conduct constitutes the offence of contempt of Court and the Courts are vested with the power of dealing with it in a manner that is almost arbitrary. For this reason, the power is rarely invoked and only when the dignity, respect and authority of the Courts (and the Judges) to keep the course of justice free, power of great importance to society, for by the exercise of them Law and Order prevail; those who are interested in wrong are shown that the law is irresistible “.

See also the case of **ABU RAMADAN & NIMAKO (NO.4) vs. ELECTORAL COMMISSION & ATTORNEY –GENERAL [2015 -2016] 2 SCGLR 1105**, holding (2) of the Headnotes where the Supreme Court in relying on the Liberty Press Ltd case referred to supra held that: “Among the three arms of governance in this country, it is only in respect of the Judiciary that the 1992 Constitution has in plain words in terms of article 127(1) command every state authority and persons in Ghana to accord assistance in protecting its independence, dignity and effectiveness. In order to sustain the Democratic System of Government established by the 1992 Constitution, the judiciary is the arm of government that has been given authority to police the other arms ie the Executive and Legislature as well as all governance institutions. The Judiciary is therefore, deserving of the utmost respect and reverence if our democratic enterprise as a nation, is to succeed.”

The Respondent before us is to show cause why he should not be cited for contempt of Court for:

- 1. Scandalizing the Supreme Court,**
- 2. Bringing into ridicule the dignity, respect and stature of the Supreme Court**
AND
- 3. Inciting prejudice against the Supreme Court.**

In his tweets dated May 19, 2023, which Ghana web General News carried an article on, which article attracted at least 120 comments.

Apart from calling the Supreme Court **“Stupid”**, the Respondent also stated that, **“Judges lack ethical standard and needs lessons in political philosophy”**. He also said, **“ A major element in the death of democracies is partisanship in the delivery of justice.”** The inherent threat contained in the tweet that **“Time will Tell”** is not lost on us especially in the light of the fact that three Judges whose bust stand in the forecourt of the Supreme Court were abducted and murdered on 30th June , 1982.

The question is what Judges did to merit such comment. The answer is simple.

The Judges are performing our constitutionally mandated duty in the administration of Justice.

The tweet of the Respondent is in bad taste to put it mildly.

Be that as it may, we have already stated the Respondent has shown remorse by his Letter of Apology to the Acting Chief Justice through the Judicial Secretary. We have also taken into consideration the plea of counsel for the Respondent in mitigation of sentence.

It is in the light of this that the Contemnor/Respondent is hereby cautioned and discharged.

M. OWUSU (MS)

JUSTICE OF THE SUPREME COURT

A. LOVELACE – JOHNSON (MS)

JUSTICE OF THE SUPREME COURT

PROF. H.J.A.N MENSA – BONSU (MRS)
JUSTICE OF THE SUPREME COURT

S.K.A. ASIEDU
JUSTICE OF THE SUPREME COURT

E. Y. GAEWU
JUSTICE OF THE SUPREME COURT