

**IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN
ITS MARCH TERM, A.D. 2021**

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE
BEFORE HER HONOR: JOSEPH N. NAGBEASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA..... ASSOCIATE JUSTICE

Deborah T. Mills, Co-Administratrix of the Intestate)
Estate of Theophilus Addo Mills, Sr. of the City of)
Monrovia, Republic of Liberia Informant)
)
Versus) **BILL OF**
) **INFORMATION**

His Honor J. Vinton Holder, Judge, Monthly and Probate)
Court for Montserrado County, Republic of Liberia)
..... 1st Respondent)
)
AND)
)

Theophilus Addo Mills, Jr. et al., Co-Administrators of the)
Intestate Estate of Theophilus Addo Mills, Sr., of the City)
of Monrovia, Republic of Liberia 2nd Respondent)
)

GROWING OUT OF THE CASE:)
)

Theophilus Addo Mills, Jr. et al., Co-Administrators of the)
Intestate Estate of Theophilus Addo Mills, Sr., of the City)
of Monrovia, Republic of Liberia Appellant)
)
Versus) **APPEAL**
)

His Honor J. Vinton Holder, Judge, Monthly & Probate)
Court for Montserrado County, Republic of Liberia and)
Deborah T. Mills, Co-Administratrix of the Intestate)
Estate of Theophilus Addo Mills, Sr. of the City of)
Monrovia, Republic of Liberia Appellees)

Heard: May 19, 2021

Decided: August 25, 2021

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

This bill of information proceedings grow from a Judgment of the Supreme Court, rendered on August 5, 2019, wherein this Court mandatorily adjudged as follows:

“... that the appellants should forthwith retroactively remit to the appellee proceeds representing her one third interest in the estate for the last five years and henceforth remit regularly, her one third of any and all proceeds received from the

estate, and to immediately place the appellee in an appropriate home within the estate...”

On May 6, 2021, the informant herein, Deborah T. Mills, filed an eight (8) count bill of information alleging therein that the 1st respondent, His Honor J. Vinton Holder, Judge, Monthly and Probate Court for Montserrado County, in keeping with the mandate of the Supreme Court, ordered the 2nd respondent, the Intestate Estate of Theophilus Addo Mills, Sr., by and thru its co-administrators, Theophilus Addo Mills, Jr. et al., to pay to the Informant the amounts of Eleven Million Liberian Dollars (L\$11,000,000.00) and Fifty One Thousand United States Dollars (US\$51,000.00), representing her one-third interest in the estate for the last five years; that the 2nd respondent having failed to comply with the court’s order requiring them to remit the afore-stated monies to the informant, the 1st respondent issued a writ of arrest for contempt against the 2nd respondent; that notwithstanding the non-compliance of the 2nd respondent to the court’s order which necessitated the issuance of a writ of arrest for contempt, the 1st respondent has been reluctant to ensure 2nd respondent’s compliance with the mandate of the Supreme Court.

The informant also alleged that besides the 2nd respondent’s failure to retroactively pay her one-third interest of the proceeds generated by the Intestate Estate for the last five years, the administrators have also refused to remit her one-third interest from current monthly proceeds from the estate as mandated by the Supreme Court.

In their returns filed on May 19, 2021, the 2nd respondent asserted that contrary to the allegations contained in the informant’s bill of information as to their non-compliance with the Supreme Court’s mandate, they have paid more than Two Hundred Thousand Liberian Dollars (L\$200,000.00) to the informant through the office of the Sheriff of the Monthly and Probate Court for Montserrado County, constituting approximately 85% of the retroactive one-third interest payment due the informant; and, that they have also provided the informant with a suitable dwelling home within the estate.

The 2nd respondent however contended that the amounts of Eleven Million Liberian Dollars (L\$11,000,000.00) and Fifty One Thousand United States Dollars (US\$51,000.00) respectively, as the alleged amounts due the informant in retroactive payments of her one-third interest in the estate is unsubstantiated, because said amounts were not determined based on the financial records of the Intestate Estate; rather, it was

the informant who claimed the said amount, and requested the 1st respondent to compel the 2nd respondent to pay same to the informant to constitute her retroactive one-third interest in the estate for the last five years.

As we stated herein, the Mandate of this Court required the 2nd respondent, the Intestate Estate of Theophilus Addo Mills, Sr. thru its administrators to provide a suitable dwelling home for the informant within the estate, to forthwith pay to the informant proceeds representing her one-third interest in the estate retroactively for the last five years, and henceforth continue said payment on a regular basis.

We note that both the informant and 2nd respondent concede that the aspect of this Court's Mandate regarding the provision of a suitable dwelling home for the informant within the estate has been complied with. Therefore, our inquest, given the facts gleaned from the records, is whether the retroactive and up-to-date proceeds due the informant as her one-third interest in the Intestate Estate of Theophilus Addo Mills, Sr. have been satisfied in keeping with our Mandate. However, we must first determine whether this bill of information will lie for said purpose.

As to the scope and province of a bill of information, this Court has opined and still maintains that a bill of information before the full bench will lie where it grows out of a pending action before the full bench or where a matter has been decided by the full bench and the mandate therefrom is being improperly executed by the lower court, or being impeded or obstructed by one or some of the parties; or where there is a usurpation of the province of the Court, or there is a refusal to carry out the Court's mandate or orders by the respondent. *Liberia Aggregate Corporation v. Taylor et al.* 35 LLR 3, 8 (1988); *Majority Membership of the United Church of the Lord, Inc. v. Minority Membership of the United Church of the Lord, Inc. et al.*, 39 LLR 692, 705 (1999); *Jawhary v. Ja'neh*, Supreme Court Opinion, October Term, 2013.

The records reveal that this Court's Mandate, specifically regarding the retroactive payment of proceeds to the informant has not been satisfied. In fact, in the prayer of its resistance to the bill of information, the 2nd second respondent concedes to the non-satisfaction of the mandate to the effect that "2nd respondent be allowed a reasonable time to fully execute the Mandate of this Honorable Court by completing the exercise it has begun in establishing the proper accounting of the Intestate Estate..."

We state here, that the language of the Mandate of this Court demanded prompt and immediate action by the 2nd respondent when it ordered that the 2nd respondent “forthwith retroactively remit proceeds to the informant”. Hence, this bill of information will lie to have this Court review the status of its Mandate and to ensure compliance thereto.

Proceeding with the contention as to the satisfaction of this Court’s mandate, we take judicial notice that the Judgment from which this bill of information grows was rendered on August 5, 2019, that is to say two (2) years ago; that both parties acknowledged what they referred to as “partial payment” in an amount of approximately Two Hundred Thousand Liberian Dollars (L\$200,000.00) to the informant as part payment of her one-third interest in the estate for the last five years.

However, we are concerned and are at a loss as to this partial payment as we ask the question “what was determined to be the amount constituting the proceeds for the estate for the last five years”. While the informant claims that the amount due her is Eleven Million Liberian Dollars (11,000,000.00) plus Fifty One Thousand United States Dollars (US\$51,000.00), the 2nd respondent counter claims that the said amounts are speculative and without any financial documentation to substantiate same.

The claims asserted by both the informant and 2nd respondent further raise the imperative question of on what basis were the respective amounts calculated, or how did the trial court derive said amounts

In counts 2 and 3 of its resistance, the 2nd respondent alleged that the amounts imposed on the estate to be paid to the informant was determined without any financial records or information as reliance thereof, and that the 1st respondent relied on the alleged erroneous information provided by the informant and compelled the estate to comply with same. Furthermore, without providing any financial basis, the 2nd respondent averred that the “approximate amount of Two Hundred Thousand Liberia Dollars (L\$200,000.00)” represented “over 85% of the payment required and due the informant...” We again ask, 85% of what amount and how was said figure calculated?

The certified records contain several instruments which this Court finds wanting of supporting evidence or reliance regarding the amounts in question. We quote these

instruments beginning with an order from the Monthly and Probate Court for Montserrado County dated January 20, 2020, to wit:

“To : THE ADMINISTRATORS, ADDO MILLS ESTATE

FROM : HIS HONOR, J. VINTON HOLDER, JUDGE, MONTHLY &
PROBATE COURT, MONT., R/L

SUBJECT : PAYMENT OF 1/3 SHARE TO THE WIDOW, MADAM
DEBORAH T. MILLS

DATE : JANUARY 20, 2020

Pursuant to the Mandate of the Honorable Supreme Court of the Republic of Liberia, you are hereby mandated to pay to Madam Deborah T. Mills, widow of Theophilus Addo Mills, Sr., 1/3 retroactive for the period of five years, the sum of L\$19,198,000.00 and US\$51,000.00 on or before the 31st day of January, A.D. 2020.

AND IT IS HEREBY SO ORDERED.”

Another communication evident in the records is a letter from the informant’s lawyer addressed to His Honor J. Vinton Holder, informing him of the 2nd respondent’s recalcitrant stance in complying with this Court’s Mandate as regards the amounts ordered by the trial court. This communication prompted the issuance of a writ of arrest order for contempt, dated October 16, 2020, against the 2nd respondent, coming almost nine (9) months after the January 20, 2020, order by the trial court. However, the records are silent as to the outcome of the writ of arrest orders.

Following the trial court’s order mandating the 2nd respondent to pay the informant the afore-stated amounts, which order has not been complied with according to the records, the trial court then issued another order four (4) months later, that is, on February 24, 2021, addressed to Michael O. Mills, one of the co-administrators of the Intestate Estate of Addo Mills, Sr. requiring the said co-administrator to present an inventory of the estate along with the financial records of all the activities of the Estate for the past years, to enable the court determine the informant’s one-third dower rights for the past five years. We quote below the said order of the trial court, to wit:

“In Re: THE INTESTATE ESTATE OF THEOPHILUS ADDO MILLS

COURT’S STOP ORDER

TO : Michael O. Mills, of Gardnesville, Montserrado County, Republic of Liberia

From : Edwin S. Boimah, Sr., Clerk, Monthly and Probate Court, Montserrado County, Republic of Liberia

Subj. : Furnish Court with the inventory of the Estate, and the financial records of your activities as co-administrator of the above named Estate.

Date : February 24, 2021

Upon receipt of this order, you are ordered to furnish this court with the inventory of the estate and financial records of your activities as co-administrator of the above named Estate for the past years to enable court to calculate the five (5) years dower rights of Mrs. Deborah T. Mills within the period of seventy-two (72) hours as of this date. Note that upon your failure to adhere to this order you shall be held in contempt of court.

And for so doing, this shall constitute your legal, sufficient notice and court’s stop orders.

Approved: _____

His Honor J. Vinton Holder
Judge, Monthly & Probate Court
Mont. Co., Republic of Liberia”

Following the issuance of the above quoted order, which again the records are silent relative to the execution thereof, the trial court issued another order on March 18, 2021, this time addressed to Mr. Stephen Charles Clarke, Curator for Montserrado County, Republic of Liberia. We also quote said order below:

“In Re: THE INTESTATE ESTATE OF THEOPHILUS ADDO MILLS

COURT’S ORDER

To : Mr. Stephen Charles Clarke, Curator, Monthly and Probate Court for Montserrado County, Republic of Liberia

From : Edwin S. Boimah, Sr., Clerk, Monthly and Probate Court, Montserrado County, Republic of Liberia

Subj. : Take over Sole Supervision of the Intestate Estate of Theophilus Addo Mills with immediate effect

Date : March 19, 2021

You are hereby commanded to proceed on the premises of the above named Estate and issue this court's order on the administrators of the above named Estate, to the effect that the Monthly and Probate Court for Montserrado County, Republic of Liberia has ordered you, with immediate effect, to take sole supervision of the above named Estate to have the enforcement of the Honorable Supreme Court's Mandate implemented; conduct inventory of the said Estate property to enable court to conform to the mandate of th6e Honorable Supreme Court of the Republic of Liberia.

AND FOR SO DOING, THIS SHALL CONSTITUTE YOUR LEGAL AND SUFFICIENT AUTHORITY

Approved: _____

His Honor J. Vinton Holder
Judge, Monthly & Probate Court
Mont. Co., Republic of Liberia”

Again the records do not reveal the status of the trial court's order regarding the supervision of the Intestate Estate of Theophilus Addo Mills, Sr. by the court's Curator.

Moreover, the absence of financial records which should have been the basis of the trial court's determination of how much constituted the informant's one-third interest in the proceeds of the estate, indicates to this Court that the administrators of the estate have not complied with the Mandate of this Court which finds support in the applicable provision of the Decedent's Estates Law relative to their duties as administrators. But more disturbing, is the Probate Court's seeming acquiescence with the recalcitrant behavior by the 2nd respondent.

Section 119.1 of the Decedents Estates Law states thus:

“Inventory and appraisalment.

1. Requirements as to inventory. Within two months after his appointment, unless a longer time shall be granted by the court, every executor or administrator shall make and return a verified inventory and appraisalment in one written instrument, of all the property of the decedent which shall come to his possession...bank accounts, insurance policies in which the estate is beneficiary, and money...”

We are therefore baffled as to how the probate judge derived at the sum of Eleven Million Liberian Dollars (LD\$11,000,000.00) and Fifty One Thousand United States

Dollars (US\$51,000.00), respectively representing proceeds due the informant for the past years, in the absence of the filing of an inventory and financial records of the Estate.

Howbeit, given the present bill of information which has once again made this Court seized of the matter of the informant's one third interest in the Intestate Estate of Theophilus Addo Mills, Sr., we hold that the trial judge erred when he failed to ensure that the 2nd respondent fulfilled their fiduciary duties to the estate, and that predicated on the 2nd respondent's failure to fully comply with the August 2, 2019 Mandate of this Court for two years, this bill of information will lie.

WHEREFORE AND IN VIEW OF THE FOREGOING, the bill of information is granted. The estate is hereby removed from the management and control of the administrators of the Intestate Estate of Theophilus Addo Mills, Sr. and placed under the control of the Monthly and Probate Court for Montserrado County to be administered by the Curator; that the Probate Court Judge is to instruct Deborah T. Mills, Theophilus Addo Mills, Jr., Richard E. Addo Mills, Michael O Mills and others, who heretofore administered the Intestate Estate of Theophilus Addo Mills, Sr. to file an inventory and financial report with the Monthly and Probate Court for Montserrado County dating five years back as of 2014 up to August 5, 2019, within three (3) months as of rendition of this Judgment to form the basis for the determination of the amount of the informant's one third interest in the estate; that henceforth, the Curator of the Monthly and Probate Court for Montserrado County shall further calculate one-third of the estate's current income and remit same to the informant on a monthly basis until the closure of the estate is effected; and that the Judge of the Monthly and Probate Court for Montserrado County is hereby ordered to close the estate and partition the properties of the estate amongst the beneficiaries within twelve calendar months as of the date of entry of this Opinion and the Judgment thereof. The Clerk of this Court is ordered to send a mandate to the Monthly and Probate Court for Montserrado County commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the 2nd respondent. AND IT IS SO ORDERED.

When this case was called for hearing, Counsellor Morris M. Davis, Jr. of the Kemp and Associates Legal Chambers appeared for the informant. Counsellor Dalama J. Solunteh appeared for the respondents.