

**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 HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
 BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

The Management of Inter-Com Security Systems)
 of the City of Monrovia, Liberia.....Informant)

Versus) **BILL OF INFORMATION**

Her Honor Comfort S. Natt, Judge National Labor)
 Court, Temple of Justice, Monrovia, Liberia, Regi-)
 nald W. Doe, Director/Hearing Officer, Ministry of)
 Labor and Allen Kromah et al, all of the City of)
 Monrovia, Liberia.....Respondents)

GROWING OUT OF THE CASE:)

The Management Of Inter-Com Security Systems)
 of the City of Monrovia, Liberia.....Appellant)

Versus) **APPEAL**

Her Honor Comfort S. Natt, Judge National Labor)
 Court, Temple of Justice, Monrovia, Liberia, Regi-)
 nald W. Doe, Director/Hearing Officer, Ministry of)
 Labor and Allen Kromah et al, all of the City of)
 Monrovia, Liberia.....Appellees)

GROWING OUT OF THE CASE:)

The Management Of Inter-Com Security Systems)
 of the City of Monrovia, Liberia.....Petitioner)

Versus) **PETITION FOR JUDICIAL REVIEW**

Reginald W. Doe, Director/Hearing Officer,)
 Ministry of Labor and Allen Kromah et al, all of)
 the City of Monrovia, Liberia.....Respondents)

GROWING OUT OF THE CASE:)

Allen Kromah et al, all of the City of Monrovia,)
 Liberia.....Complaints)

Versus) **UNFAIR LABOR PRACTICE/
WRONGFUL DISMISSAL**

The Management of Inter-Com Systems of the)
 City of Monrovia, Liberia.....Defendant)

Heard: May 19, 2021

Decided: August 25, 2021

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This bill of information grows out of the Judgment of this Court mandating the court below to proceed as follows: (a) that the relevant documents be presented to determine the monthly, weekly or hourly salary for each appellee; and (b) that the appellees having worked for only five (5) years their compensation for wrongful dismissal by the appellant should be for twelve (12) months and not for twenty-four (24) months as decided by the hearing officer.

The underlying appeal was decided by this Court on February 7, 2019, upholding the final judgment of the judge of the National Labour Court, Her Honor Comfort S. Natt, co-respondent herein. The co-respondent judge confirmed the final ruling of the Ministry of Labour holding the informant herein, Inter-Com Security Systems liable for wrongfully dismissing Allen Kromah, Ebrahim Roger, Steve Ajavon, Fredick Mulbah, Manson Kimilack, Thomas Weeks and Eddie Yalley, co-respondents herein.

Following the transmittal of the Supreme Court's mandate to the court below, the said court requested the Hearing Officer to proceed in keeping with the Supreme Court's mandate. Based on the records and evidence couched therein, the Hearing Officer determined that the co-respondents earned US\$0.80 each on an hourly basis as state security guards thus translating same to US\$6.40 daily, US\$38.40 weekly, US\$153.00 monthly or US\$1,843.00 including interest as the cumulative yearly compensation for each co-respondent. Based on the Hearing Officer's determination, the clerk of the National Labour Court prepared a bill of costs for taxing by the lawyers on both sides and the subsequent approval of the co-respondent judge.

It is predicated upon the calculation of the Hearing Officer and the prepared bill of costs by the clerk of the National Labour Court which was neither taxed by the counsels of the parties nor approved by the co-respondent judge that the informant filed its ten count bill of information before this Court substantially alleging that despite the certified records confirming an hourly wage of US\$0.80 and the Supreme Court's mandate to review the relevant documents to determine monthly, weekly or hourly salary of the appellees, the Hearing Officer also calculated the US\$0.80 hourly pay, US\$6.40 daily wage, US\$38.40 weekly pay and US\$153.60

monthly pay for each of the co-respondents; that the method of calculation adopted by the Hearing Officer and confirmed by the court below was contrary to, inconsistent with and constitute a serious irregularity in the execution of the mandate of this Court; that the calculation was based on presumption without evidence; and that the bill of information will lie in the face of the irregular and improper execution of the Supreme Court's mandate.

The respondents denied the allegations as contained in the information and substantially averred that the evidence produced by the co-respondents during hearing shows that they earned US\$0.80 hourly wage each; that this evidence was not denied or rebutted by the informant; that the Hearing Officer used the US\$0.80 as the basis to arrive at the twelve month compensation mandated by the Supreme Court; that the informant failed to give an alternative method of calculation; that the information was filed for dilatory reason for which the Court should penalize the counsels filing the information in keeping with Rule IV, Part 12(e) of the Revised Rules of the Supreme Court; and that the entire information should be denied and dismissed on ground that the co-respondent judge did not execute the mandate of the Supreme Court in an irregular and improper manner.

The information, the returns thereto and the arguments made by the parties before this Court present the following dispositive issues: (1) whether the bill of information will lie? And,
(2) whether the informant filed the bill of information for the purpose of baffling the execution of the Supreme Court's mandate?

We shall proceed to address the issues in the order presented. A closer scrutiny of the informant's bill of information, specifically count #4 thereof, clearly indicates that the informant does not controvert the fact that each of the co-respondents earned US\$0.80 hourly wage. Additionally, nowhere in the records did the informant refute the evidence that the co-respondents were state guard security personnel who worked eight hours a day and six days a week thus translating to an equivalent forty-eight hours of work per week. Now, considering the mandate of this Court instructing the court below to use the relevant documents in determining the hourly, weekly or monthly salary of each of the co-respondents and that on the basis of such determination pay twelve (12) month salary compensation to the co-respondents for their wrongful dismissal, the informant's bill of information did

not set out clearly how the calculation made by the Hearing Officer deviated from the Court's instruction. The evidence couched in the records informed the formula adopted by the Hearing Officer to arrive at the twelve month compensation as mandated by this Court; that is to say, using the US\$0.80 hourly pay, the Hearing Officer determined that the co-respondents earned US\$6.40 per day and so forth.

This Court takes cognizance of the Gregorian calendar which is a commonly used tool for counting number of days, weeks and months of the year in Liberia. This calendar consists of four weeks in a month. Using this calendar, it can be reasonably inferred that the Hearing Officer multiplied the daily earning of US\$6.40 by six days to give the weekly earnings of US\$38.40, considering that the co-respondents are entitled a day off per week. Further guided by the object of determining the twelve month compensation ordered by this Court, the Hearing Officer multiplied the weekly earnings by four which equaled the amount of US\$153.00 monthly pay. Lastly, the Hearing Officer multiplied the monthly earning of US\$153.00 by the twelve months mandated by the Court and arrived at US\$1,843.00 for each co-respondent as compensation including interest.

This Court has espoused on the office of a bill of information in the *Intestate Estate of the late Sarah Sirleaf v. El-Bim et al, Supreme Court Opinion, March Term, A.D. 2013*, that in order for a bill of information to lie, the matter forming the basis of the information must have been pending before the Supreme Court, or decided by it; there must be an act to usurp the province of the Court; there must exist some irregularities or obstruction in the execution of the Supreme Court's mandate or there must have been a refusal to carry out the Supreme Court's mandate.

We confirm that the present information concerns matter decided by the Supreme Court, however, the allegations of irregular and improper execution of the Court's mandate are unsupported by the records. This Court has consistently articulated that averments of a pleading do not constitute proof and that evidence is essential as truth of the facts. *Chae Dea Byoung et al v. The Government of Liberia, Supreme Court Opinion, March Term, A.D. 2019. Edith Gongloe-Weh v. NEC et al, Supreme Court Opinion, March Term, A.D. 2021.*

Equally important to note is that mere allegations of irregular and improper execution of the Court's mandate do not in themselves constitute the sufficiency or truthfulness of the allegations so as to bring them under the office of a bill of

information. Such unsubstantiated allegations may be intended to baffle the expeditious administration of justice as we have observed in the instant case.

Clearly, it was the mandate of this Court that the trial court resumes jurisdiction over the case and based on relevant documents make a determination for the compensation of the co-respondents. The compensation shall be twelve months according to the hourly, weekly or monthly salaries of the co-respondents. The functions of weekly or monthly salaries to arrive at the mandate of this Court cannot be said to be irregular, particularly, where another function is not available.

Based on the analysis of the parties' respective contentions and evidence gathered from the records of this case, we are inclined to hold that the informant failed to substantiate its allegations of irregular and improper execution of the Supreme Court's mandate. Moreover, the facts and circumstances under which the informant proceeded to prosecute this information have compelled this Court to inquire into the second issue; that is, whether the informant filed the bill of information for the purpose of baffling the execution of the Supreme Court's mandate?

We hasten to note that the informant confirms the material fact that the co-respondents earned US\$0.80 per hour of work; however contends that the formula used by the Hearing Officer was based on presumption and not on evidence supported by the records. We disagree. We do not see how this method of calculation is irregular to constitute an improper execution of the Court's mandate. Assuming that the informant's contention is tenable, the informant has failed to advance an alternative method or additional information for the determination of the twelve month compensation. Assuming also that the Hearing Officer presumed the daily, weekly and monthly salaries of the co-respondents, the informant has failed to persuade this Court on the points that the co-respondents did not work eight hours per day, six days per week or four weeks per month. In fact, to the contrary, the co-respondents have argued that during hearing, they produced evidence to support these facts which were not rebutted by the informant.

As though the failure of the informant to suggest an alternative method of calculating the twelve month compensation for the co-respondents, failure to give additional information in determining the said compensation, and the failure to

produce rebuttal evidence on hours of work were not enough, we observe that the bill of information was prematurely filed.

Our inspection of the records reveals that on June 11, 2020, the clerk of the National Labour Court prepared the bill of costs. The co-respondent judge cited the parties to a conference in which the informant raised its contention regarding the calculation by the Hearing Officer. Although the trial judge is said to have indicated her disagreement with the informant's contention, she, however, did not approve the bill of costs. On June 30, 2020 the informant filed its information. This Court says that in the absence of the approval of the bill of costs by the trial judge, the said judge cannot be said to have ordered the execution of this Court's mandate in an improper manner. The statute directs that "after final judgment, the clerk of court shall prepare a bill of costs which he shall transmit to the attorneys for all the parties. The judge shall approve the bill of costs agreed upon by the attorneys, or if they cannot agree, he shall settle the disputed items and approve the bill as settle". *Civil Procedure Law Revised Code: 1:45.5*

It should be noted that the plain language of the statute denotes that a disputed item in the bill of costs shall be settled by the judge after an agreement with attorneys of the parties and thereafter approve the bill of costs. In the instant case, the informant is said to have refused and failed to submit to the attempt by the co-respondent judge to settle the contention raised by it, and rather elected to prematurely file this bill of information.

We also observe that although the Hearing Officer's calculation was a subject of review by the National Labour Court which ordered him to determine the hourly, weekly or monthly pay in keeping with this Court's mandate, the informant also failed to make its disagreement with the Hearing Officer's decision a matter of information before the said court. To the mind of this Court, the informant not having formally raised its contention in a bill of information or a petition for a review before the National Labour Court, and the bill of costs not having been approved by the co-respondent judge, the premature filing of this information was intended to baffle the execution of the mandate of this Court considering the protracted length of time it has taken to dispose of this case. The decision of this

Court on February 7, 2019 granting relief to the co-respondents was final and conclusive. The informant's bill of information demonstrates its attempt to keep the case in further abeyance thereby denying the co-respondents the much desired relief in twenty-four years.

In contemplation of such dilatory tactics as demonstrated by the informant's counsels in the instant case, the Supreme Court prescribed Rule IV, Part 12 (e) of its Revised Rules as follows:

- (a) A Bill of Information will lie to prevent a Judge or any Judicial Officer who attempts to execute the mandate of the Supreme Court in an improper manner from doing so, with the Judgment and/or Mandate of the Supreme Court.
- (b) A Bill of Information will also lie to prevent any one whomsoever from interfering with the Judgment and/or Mandate of the Supreme Court.
- (c) The Bill of Information shall...
- (d) Once a Bill of Information shall have been filed...
- (e) Any counsellor who files a Bill of Information before this Court assigning reasons therefor other than the reason expressly prescribed by these Rules shall be penalized by the imposition of a fine, suspension or disbarment.

We are therefore inclined not only to hold that the bill of information will not lie, but to further hold that the informant's counsels filed this bill of information for reasons contrary to those prescribed under Rule IV, Part 12 above. Pursuant to this holding, Counsellors Stephen B. Dunbar, Jr. and Emmanuel T. Reeves are each fined the amount of US\$500.00 to be paid in government's coffers within 72 hours.

WHEREFORE and in view of the foregoing, the bill of information is denied and dismissed. Counsellors Stephen B. Dunbar, Jr. and Emmanuel T. Reeves are each fined the amount of US\$500.00 to be paid in government's coffers within 72 hours. The Clerk of this Court is ordered to send a mandate to the court below to resume jurisdiction over this case and give effect to the Judgment of this Opinion. AND IT IS HEREBY ORDERED.

When this case was called for hearing, Counsellor Emmanuel T. Reeves of the Dunbar & Dunbar Law Offices appeared for the informant. Counsellor Cooper W. Kruah of the Henries Law Firm appeared for the respondents.