

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2023

BEFORE HER HONOR.....SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR.....JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONORJOSEPH N. NAGBE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR.....YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR.....YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE

National Elections Commission, Nyonblee Karnga-Lawrence
and Emmanuel Azango of the City of Monrovia, Montserrado
County, Republic of Liberia.....Appellants

Versus

Musa Hassan Bility and others of the Liberty Party (LP) of
The City of Monrovia, Montserrado County, Liberia.....Appellees

APPEAL

GROWING OUT OF THE CASE

Musa Hassan Bility and others of the Liberty Party (LP) of
The City of Monrovia, Montserrado County, Liberia.....Petitioners

Versus

National Elections Commission, Nyonblee Karnga-Lawrence
And Emmanuel Azango of the City of Monrovia, Montserrado
County, Republic of Liberia.....Respondents

**PETITION FOR A WRIT
OF CERTIORARI**

GROWING OUT OF THE CASE

Musa Hassan Bility and others of the Liberty Party (LP) of
The City of Monrovia, Montserrado County, Liberia.....Petitioners

Versus

Atty. Annie W. Broderick & Cllr. Muona S. Ville, Hearing Officers
National Elections Commission, Nyonblee Karnga-Lawrence and
Emmanuel Azango, all of the City of Monrovia, Montserrado
County, Republic of Liberia.....Respondents

**PETITION FOR
JUDICIAL REVIEW**

GROWING OUT OF THE CASE

Musa Hassan Bility and others of the Liberty Party (LP) of
The City of Monrovia, Montserrado County, Liberia.....Movants

Versus

Nyonblee Karnga-Lawrence and Emmanuel Azango, all
of the City of Monrovia, Montserrado County, Republic of
Liberia.....Respondents

MOTION TO DISMISS

GROWING OUT OF THE CASE

COMPLAINT AGAINST THE NATIONAL ELECTIONS COMMISSION } **COMPLAINT**
(NEC), & MUSA HASSAN BILITY, ET. AL.

HEARD: March 21, 2023

DECIDED: April 12, 2023

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This appeal emanates from the ruling of our astute colleague, His Honor Yussif D. Kaba, when he served as Chambers Justice during the October A.D. 2022 Term of this Court. Mr. Justice Kaba delivered an exhaustive ruling in favor of the Petitioners for the Writ of Certiorari,

Mr. Musa Hassan Bility, Martin F. Kollah, et al of the Liberty Party, appellees herein, against the National Elections Commission (NEC), Senator Nyonblee Karnga-Lawrence, Emmanuel Azango et al, appellants herein, which this Court en banc has been called upon to review, dissect and make its final determination.

The certified records show that on October 3, 2022, Senator Nyonblee Karnga-Lawrence and Emmanuel Azango, filed a complaint against the NEC and Musa Hassan Bility et al., at the National Elections Commission (NEC), contending the objections to the alleged unwarranted actions of the appellees and their persistent partial and bias conduct and the complicity of the NEC in fueling irregularities and confusion which aided and abetted the appellees of illegally conducting the affairs of the Liberty Party outside the legal frame work of the Party. The appellants contended in their complaint that on the 20th day of September 2022, NEC through its Chairperson, Madam Davidetta Browne Lansanah, communicated with Mr. Musa Hassan Bility in which she referred to him (Mr. Bility) as the chairman of the Collaborating Political Party (CPP); that prior to this communication, the Political Leader of the Liberty Party, Madam Nyonblee Karnga Lawrence had earlier written to the NEC disassociating Liberty Party from any further engagement with the CPP, given the circumstances surrounding the Liberty Party's internal conflict that the NEC has become and/or made itself a party. The appellants also contended that Section 5.5 of NEC's Rules and Regulation, captioned "False statement to the Commission" provides that: "it shall be a violation of these Regulations and Guidelines for any political party, coalitions, alliance, aspirant, candidate, or others acting on behalf of a political party, aspirant or candidate to submit a false information or statement to the Commission". Further, Section 2.8 imposes an obligation on the NEC to vet, check, verify and compel any political party submitting any document to NEC to verify it before accepting the document or denial of said document.

The appellants contended that these provisions of the NEC's laws were deliberately ignored and set aside by the NEC for the sole purpose of aiding and abetting Mr. Musa Hassan Bility's illegal conduct to impose himself on the Liberty Party as its chairman. According to the appellants, the conduct by the NEC and Musa Bility is in violation of NEC's statutory duties and responsibilities, as Mr. Bility cannot by himself commit the Liberty Party to any compact and/or alliance in the absence of the Liberty Party's leadership. The appellants maintained that the substance of its complaint includes, but is not limited to the series of specific and general unlawful and illegal conduct by which the NEC and the appellees separately, jointly and collectively threatened the continued existence of the Liberty Party and put into total disarray and distinction, the smooth operation and function of Liberty Party; that pursuant to the authority granted to the Political Leader under the 2015 Constitution of Liberty Party, she

convened and presided over a Special Convention held in Gbarnga, Bong County on January 23, 2021; that after the adjournment of this Special Convention, Partisan Emmanuel Azango filed a complaint to the Political Leader and Chairman of the Special Convention, contending that the entire electoral process was poked and riddled by constitutional violations and procedural breaches citing Articles V, VI and XII of the 2015 Constitution of Liberty Party, under which the Convention was held.

The appellants contended that the Political Leader requested for the report of the Special Convention including the adopted constitution for review, approval and onward submission to the National Elections Commission in keeping with Chapter III Section 3.4(d) of the NEC's Regulations and Guidelines (2017) relating to Political Parties and Independent Candidates which requires that the Report of the National Convention is to be submitted by the Chairperson of the Convention. In this case, it was the Political Leader of Liberty Party, Senator Nyonblee Karnga-Lawrence who chaired the Convention.

The appellants alleged that it was later learned that the 2021 Constitution had been signed, notarized, and irregularly and unlawfully submitted by Musa Hassan Bility who was 'elected' National Chairman; that in violation of the said Regulation and Rules of the NEC, Musa Bility notarized and submitted an altered version of the constitution with provisions different from that which was deliberated upon and approved by the January 23, 2021 Special Convention. The appellants also alleged that the NEC, being the statutory regulator of all political parties, and being duly represented at the January 2021 Special Convention, was under legal duty to reject an instrument that was improperly and irregularly submitted to it by unauthorized individuals as prescribed by the Liberty Party's Regulation and Guidelines; especially so that the NEC attended the LP's January 2021 Special Convention by and through its authorized representative. Therefore, according to the appellants, the NEC's failure to perform its statutory duties, it accepted the submission of a different, tampered and "figure" constitution purporting to be the LP's Constitution approved by the January 2021 Special Convention held in Gbarnga, Bong County, Republic of Liberia; that by the submission of this false document the appellees should have been penalized in accordance with the NEC's Regulations and Guidelines (*section 5.5 of NEC Regulations and guidelines*); that on August 23, 2021, Mr. Ignatius Wisseh, Political Officer of the NEC heard the appellants' filed a complaint, but elected to ignore same, in the midst of irregularities/inaccuracies both in terms of procedures and contents, notwithstanding Chapter III.4 of NEC's regulations cited above; that the Political Officer in a communication invoked *Chapter III Section 3.3 of the NEC's Regulations and Guidelines* relative to Political Parties and Independent Candidates, i.e., that the Parties exhaust the Party's internal Grievance Mechanisms as a precondition for the NEC's

involvement; that pursuant to the instructions of the NEC's Political Officer, Musa Bility agreed that the National Advisory Council (NAC) of Liberty Party would mediate and resolve the crisis in the Party; that the NAC's investigation revealed that the Constitution had indeed been altered; that in its final report the NAC, specifically stated that two provisions of the Constitution submitted to the NEC under the signature of Musa Bility did not reflect what was adopted at the Gbarnga National Special Convention; that two omitted provisions which were duly adopted at the January 2021 Special Convention was embodied in an MOU entitled "Memorandum of Understanding for the Resolution of Intra Party Internal Conflict", was initiated and signed by the parties on October 2, 2021 at a retreat held at the Farmington Hotel in Margibi County; that it was adopted at the Convention that "the Role of the Political Leader as stated in the draft Constitution approved at the Bassa Executive Council Seating remains the same (Article V.1) and that the standard bearer/political leader in consultation and collaboration with the Executive Council shall formulate policies and procedures to implement the decisions of the National Convention, call Special Conventions as provided for in Article VIII and take such other actions and proper measures that he/she may deem as necessary to advance the best interest of the Party; that the role of the National Chairman shall be the Chief Administrative Officer of the Party; he/she shall serve or act as Leader and Chief Representative/Spokesperson of the Party in the absence or incapacitation of the Standard Bearer/Political Leader.

The appellants asserted that the findings of the NAC along with the Farmington MOU signed by appellants and appellees, amongst other signatures, including the membership of the NAC of the Liberty Party, was forwarded to the NEC under the appellants transmittal letter of November 15, 2021. The appellants said that the NEC was essentially informed that the circumstances surrounding the filing of the 2021 Constitution has been investigated internally by the LP's internal dispute mechanism as directed by the NEC, and that the Constitution was being withdrawn to effect the necessary changes – a Constitutional right of the Political Leader who not only chaired and presided over the convention, but is also the Chief spokesperson of the Party.

The appellants' complaint further alleged that Commissioner Teplah Reeves, on December 13, 2021, twenty-eight days after the 2021 Constitution was initially withdrawn and on the date on which the NEC was notified of the annulment of the convention, and being cognizant that a complaint from Mr. Musa Hassan Bility was before the NEC Political Officers as to the withdrawal of the Constitution and that the matter has not been heard, or subject to the Party's internal dispute mechanism as alleged to be the standard procedure of the NEC irrespective of its legal duty to take judicial notice of its own regulation regarding the

submission of post-convention documents, sua sponte wrote a letter to Madam Nyonblee Karnga Lawrence, validating the intentionally altered constitution submitted by Musa Bility under a novel legal principal that the “presumption is only overturned or rebutted by a non-appealable judgment in a court of law.” The appellants’ complaint mentioned that Commissioner Reeves’ irregular and unlawful letter did not only resuscitate an already decided matter as evidenced by the Farmington Memorandum of Understanding submitted to the NEC on November 15, 2021, but also facilitated and provided the springboard for Mr. Musa Bility to perform mischievous acts inimical to the party’s cohesion and smooth operation under the pretense that he was operating under a valid Constitution; that predicated upon his irregular and unlawful letter signed by Commissioner Reeves and the consequently pretentious and feigned assumption of the validity of the intentionally altered January 2021 Constitution, improperly filed by the appellees with the NEC, Musa Bility held an illegal convention in the City of Ganta, Nimba County wherein several illegal decisions were made, including his attempt to correct his unlawful action and the correction of his forgery. The appellants submitted that this is a conspiracy by the NEC and the appellees to intentionally and with great unlawful and illegal design directly impose a tampered and forged constitution upon Liberty Party, the object and intent of which is subject to conjecture; that the NEC has a duty to sua sponte take judicial notice of its own regulations governing the submission of post National Convention Report to the NEC; that notwithstanding that the internal dispute resolution mechanism of the party was exhausted as agreed to by the parties and memorialized in a binding memorandum which NEC is by law under a duty to enforce; that notwithstanding, that it is a general principle of law that no decision can be made in the absence of a quorum and that it has been documented and admitted by Mr. Bility that the quorum did not exist at the Special National Convention, and the NEC has been so informed; notwithstanding that the Special National Convention held January 22-24, 2021 has been declared null and void in keeping with law, and notwithstanding that all decisions emanating from the said election have been declared null and void including the adoption of the Constitution and the subsequent election of the national officers including the appellee. The appellants therefore prayed that the Commission and/or Hearing Officer upholds that the NEC should unconditionally receive and file the Liberty Party’s corrected Constitution as per the Farmington MOU, submitted by Senator Nyonblee Karnga Lawrence, Political Leader and the Chairperson of the Liberty Party’s Special Convention held on January 22-23, 2021 in Gbarnga, Bong County, declare that the altered and “fingered” LP’s Constitution signed and filed by the appellees is void and not filed in keeping with the NEC’s Regulations and Guidelines; that the individuals who submitted the LP’s Constitution currently before the Commission (Mr. Bility and Mr. Martin Kollah) acted without authority by illegally and

knowingly filling an altered and false document before the Commission, should be penalized in accordance with the NEC's Regulations and Guidelines. The appellants further prayed the NEC to rule that the Chairman of the NEC, Madam Davideatta Brown Lassanah's communication to Mr. Bility referring to him (Bility) as Chairman of the Collaborating Political Parties (CPP), knowing fully well that the Political Leader of the Liberty Party had earlier written to NEC disassociating Liberty Party from any further engagement with CPP was in error and should be revoked. The Appellants also prayed NEC to stop aiding Musa Bility, et al in conducting the affairs of Liberty Party illegally; and that Co-Chairman Teplah Reeves should also stop communicating with Mr. Bility on behalf of the Board of commissioners given him illegal authority over Liberty Party. The appellants further prayed the NEC to rule that the Chairman of NEC, Madam Lassanah is conflicted and lacks capacity to perform her duty as an impartial referee of NEC to decide matter involving Liberty Party. The appellants concluded by asking the NEC to perform her constitutional and statutory duty as an impartial umpire or referee or actor within the political process and desist from playing a partisan role.

Responding to the appellants complaint before the NEC, the appellees argued, among other things that, this matter has already been passed on by the NEC and that the Liberty Party's January 2021 Constitution amended in December 2021 has already been passed upon by the NEC; that because same is before the Civil Law Court, Sixth Judicial Circuit for Montserrado County, Republic of Liberia, complaining before the NEC was enough to trigger the maxim of *lis pendens*. The appellees also raised the issue of **res judicata**, reasoning that this matter has also been settled by the then Associate Justice Sie-A-Nyene G. Yuoh (now Chief Justice) while in Chambers, refused to grant the writ of prohibition filed by the Petitioners, and by sending instruction down that she declined to issue the writ is construed in law as concluding the issue on the merit. The appellees further raised the issue of the appellants' capacity to bring the complaint before the NEC.

Predicated on the answer filed by the appellees at the National Elections Commission, the appellants filed a Motion to Dismiss before the hearing officer praying the hearing officer to dismiss the case on ground that the appellants lack capacity to file the action, and that the matter has already been decided by the NEC and therefore same was moot. The appellees also contended that the said same matter is pending before Civil Law Court between the same party and therefore the hearing officer should dismiss the case; the appellees' claim was rejected by the appellants as no matter is pending between the same parties in any Court, neither was there any determination of the case by any judicial tribunal.

At this juncture, we should note that both the appellees' answer and the motion to dismiss raised the legal capacity of the appellants to have announced the withdrawal of the Liberty Party from the Collaborating Political Party (CPP) and averred that Chapter 8 of the Elections Law provides that an absolute majority of the members of the executive committee of a constituent party of an alliance or collaboration must vote for such withdrawal which was not done in the case of the Liberty Party; that therefore, the party remains a constituent member of the CPP; that the issues raised in the appellants' complaint such as the alleged alteration of the January 2021 Convention, the alleged improper submission of the 2021 Constitution and the lack of quorum for the holding of the Gbarnga convention, were either decided by the NEC or the Supreme Court, or that these issues are pending before the Civil Court Law Court for Montserrado County. Additionally, that the appellants, having been suspended from their respective positions in the party, they lack the capacity to file a suit in the name of the Liberty Party without an authorization from the executive committee. The appellees therefore prayed that the appellants' complaint should be denied and dismissed.

Upon entertaining arguments pro et cons from the parties, the hearing officers denied the appellees' Motion and ruled that the NEC is clothed with legal authority to hear all election related matters; and that their review of the file did not see any record where this matter has been decided by either the Commission or any court within the Republic of Liberia on its merit. Therefore, the doctrine of res judicata cannot lie. The hearing officers also ruled that from their review of the records they did not see any action or actions pending between the appellants herein and the appellees; and therefore set aside said application and ordered the investigation/case proceeded with. We quote verbatim the ruling of the Hearing Officer:

"Issue: Have the movants/defendants presented grounds sufficient through their submission and argument to warrant the dismissal of the issues contained in the co-respondents/complainants' complaint?"

Movants/defendants have submitted that this complaint be dismissed because all of the issues contained in the co-respondents/complainants' complaint have either been passed upon the NEC, the Supreme Court by its denial to issue the writ of prohibition prayed for by the co-respondents/complainants. To support this claim, movants/defendants attached as exhibit M/1, a letter addressed to Senator Karnga-Lawrence under the signature of Cllr. P. Taplah Reeves, Co-chair/NEC, another letter addressed to Senator Karnga-Lawrence under the signature of Commissioner Boakai A. Dukuly, Com. Ernestine Morgan, Com. Floyd Oxley Saylor, Com. Barnsee Leo Kpangbai and Com. Josephine Kou Gaye. A review of these two communications indicates that there is a controversy surrounding the LP's 2021 constitution regarding its execution and submission to the NEC. Also contained in these letters is the BOC's position that the LP's 2021 notarized constitution submitted to the commission is deemed proper and remains as such, until successfully challenged in keeping with due process or via amendment by the party. The hearing officers do not

consider the position of the BOC regarding the LP's 2021 constitution as a decision but rather that the instrument is deemed proper until challenged. The co-respondents/complainants' complaint now before us suggest that indeed a challenge has been posed to the LP's 2021 constitution which requires our attention and investigation through the taking of evidence. The mere exchange of letters between the commission and the parties are not in our mind the exercise of a quasi-judicial function of the commission. As to the reference made to the Supreme Court denial to issue the writ of prohibition prayed for against movants/defendants, the hearing officers do not again consider this as the Supreme Court passing upon the issues presented by the co-respondents/complainants. As movants/defendants rightly admitted the Supreme Court declined to issue the writ and mandated that the NEC resume jurisdiction and proceed according to law.

Movants/defendants submit that co-respondents/complainants' complaint be dismissed for their failure to have obtained a resolution from the LP's Executive Committee authorizing them to file this complaint in the name of the LP. All through the averments in the complaint, the returns to this motion and argument, the co-respondents/complainants have alleged that movants/defendants leadership is illegal and not legitimate. In the face of this allegation, should this commission which has jurisdiction to investigate complaints arising within political parties, dismiss this complaint and demand that the co-respondents/complainants obtain authorization from movants/defendants before filing same? We do not agree because either party has attacked the capacity of the other to represent the LP which give rise to the need to investigate through the taking of evidence.

Movants/defendants present that co-respondents/complainants' complaint be dismissed because there is another action pending between the same parties for the same cause in a court in the Republic of Liberia. Movants/defendants in support of this submission attached a petition for declaratory judgment filed before the Six Judicial Circuit, Civil Law Court by respondent/complainant Emmanuel Azango. Before the filing of co-respondents/complainants complaint of October 3, 2022, and while respondent/complainant Emmanuel Azango's petition for declaratory judgment was pending before the Civil Law Court, the co-respondents/complainants had moved to the Supreme Court to prohibit the movants/defendants on the same issues that are pending before the Civil Law Court. The High Court in its wisdom declined to issue the writ and realizing that the parties have issues before the commission that has original jurisdiction, mandated that the commission resume jurisdiction and proceed according to law. The hearing officers are satisfied that it's indeed proper to proceed to hear this complaint as ordered by the High Court.

Movants/defendants have raised the doctrine of res judicata that the matter involving the parties has been decided by this tribunal and therefore cannot be relitigated and determined again. Movants/defendants admitted to three essential elements of res judicata which includes: a) an earlier decision on the same issue, b) final judgment on the merits and c) the involvement of the same party, or parties in privity with the original parties. The law provides that when these three essential elements are present, the doctrine of res judicata will operate to bar the subsequent bringing of the same matter involving the same parties concerning the same subject matter. Had there ever been a final

judgment on the merits? We do not think so and therefore the doctrine does not apply to this situation.

Wherefore and in view of all that we have said above, the movants' motion to dismiss is hereby denied and the matter ordered proceeded with on its merits."

From this ruling, the appellees sought redress via petition for judicial review before the Board of Commission of the National Elections Commission (NEC), praying the Board to review and reverse the decision of the Hearing Officers. The Board of Commissioners of the National Elections Commission (NEC), having thoroughly reviewed the appellees' Petition for judicial review based on the facts, circumstances and the laws controlling, ruled that Hearing Officers did not err; meaning that, their ruling was sound in law and facts. The Hearing Officers were ordered to proceed with the hearing and determination of the case on its merits. The appellees, being dissatisfied with the ruling of the Board of Commissioners of the National Elections Commission (NEC), filed a five-count petition for a writ of certiorari with the Justice in Chambers of this Court, which basically restated the facts and contentions as contained in their motion to dismiss.

The appellees contended that the Board of Commissioners of the NEC denied their petition for judicial review without stating any reason whatsoever for upholding the Hearing Officers' ruling; that Senator Nyonblee Karnga-Lawrence and Emmanuel Azango, complained and alleged the improper filing of the Liberty Party (LP) January 2021 Constitution, the withdrawal of LP's January 2021 Constitution due to alteration, challenged and questioned the capacity of Mr. Musa Hassan Bility as Chairman of the Liberty Party (LP) due to his "illegal manner of assuming said status; that an investigation set up by co-respondent Senator Nyonblee Karnga-Lawrence found the LP's January 2021 Special Convention without quorum, and therefore the January 2021 Constitution adopted therefrom and decisions adopted at that sitting including elections of National Leadership were declared null and void; that Mr. Musa Hassan Bility *"personally financed and filed a bail bond in favor of Madam Davidetta Brown Lansana, Chairman of NEC after her arrest"* and that *"this public confession by co-defendant Musa Bility explains his undue influence over the Chairman and Members of the National Elections Commission; that the appellants* therefore prayed the very National Elections Commission, a party to its complaint, for the following to include: declare the LP 2021 Constitution void; ruled that the Chairperson of the NEC, Madam Davidetta Browne Lansana's communication to Mr. Musa Hassan Bility referring to him (Bility) as chairman of the Collaborating Political Party (CPP), is revoked; rule that Commissioner Teplah Reeves should also stop communicating with Mr. Bility on behalf of the Commission; rule that the Chairman of NEC. Madam Brown Lansana, is conflicted and lacks capacity to perform her duty as

impartial referee or judge. The appellees further asserted that prior to Senator Nyonblee Karnga-Lawrence and Emmanuel Azango's October 3, 2022 complaint, Emmanuel Azango did file a petition for Declaratory Judgment in December of 2021, raising the same issues of lack of quorum for the conduct of the LP's January 2021 Special Convention, and alleged that the actions taken at the Convention, inclusive of the Constitution and the Leadership elected, were null and void; and that Mr. Musa Hassan Bility lacks the capacity to lead the Party as its chairman; that case remains pending at the Sixth Judicial Circuit Court following Justice Wolokolie's mandate to the trial Judge to resume jurisdiction after a conference hearing in a petition for Certiorari filed before the Justice in Chambers. The appellees also contended that the Liberty Party (2021) Constitution, logged with the National Elections Commission (NEC) in February 2021 following its Special National Convention in January 2021, and amended December 2021, remains authentic, valid and the sole instrument that guides all of the Party's activities and that this assertion was confirmed by the National Elections Commissions (NEC), in its communication of December 13, 2021, and January 10, 2022, addressed to then Political Leader of the Liberty Party. In the subject communications, the NEC concluded and confirmed that "the Commission notes that since the above referenced statement to the LP, the Commission has not received any final, non-appealable decision regarding the validity of the LP's 2021 constitution; neither has the Commission been served with an amendment done by the Party. Hence, the Commission herewith informs you that the Liberty Party's 2021 notarized Constitution remains proper with the Commission's communication to you; that irrespective of these assertions by the NEC, appellees contended that the appellants disregard its written Constitution; that the LP's January 2021 Convention and its filing have been laid to rest by the NEC as is evidenced from several communications from that body; and therefore, for the Board of Commissioners of the NEC to recall or make no reference to the many communications on this issue and proceed to confirm the Hearing Officers ruling is ground for the review of all of these errors; that the Hearing Officers and the Board of Commissioners of the NEC committed a reversible error when they assumed jurisdiction of a matter in which the NEC has been accused, thereby removing the said matter from that of been an intra-party conflict; that the appellees have accused the NEC of aiding and abetting and under the influence of Mr. Musa Hassan Bility, and specifically singled-out its Chairperson and co-chairperson of being the perpetrators, and branded the chairperson of being conflicted and lacked the capacity. In the instant case of criminal allegations against the NEC and its commissioners, can the Hearing Officers proceed to conduct a hearing? And because the Motion to Dismiss on this ground was denied by the Hearing Officers and confirmed by the Board of Commissioners, Certiorari will lie to review the erroneous and illegal ruling of the NEC. The appellants said further that the Constitution that governed the January 2021 Special

Convention provides in Article VIII (Special National Convention) paragraph three (3) that “*the political leader shall appoint a planning committee of the special national convention, which shall adopt standard bearer or political leader.*” This provision gives the Convention Planning Committee the authority to set rules and procedures inclusive of delegates, observers and how the convention will be conducted. In the instant case, Senator Nyonblee Karngar-Lawrence, in her capacity as political leader at the time, promulgated a special order, set up the convention planning committee, approved the rules and procedures and presided over the Special Convention in Bong County that adopted the January 2021 Constitution, elected and inducted into office at the seat of the Special Convention new National Leadership. To raise the issue of quorum of a convention presided over by the co-respondent, Nyonblee Karnga-Lawrence, and attempting to nullify the products of the said convention is absurd and dismissible; and for which erroneous rulings of the Hearing Officers and Board of Commissioners, who are also attempting to undo a legitimate process, Certiorari will lie; that Certiorari will lie to reverse the unlawful and erroneous rulings of the Hearing Officers and the Board of Commissioners because the issue of the legitimacy of Musa Bility, and the legality of the January 2021 Constitution was further affirmed by the actions of, Nyonblee Karnga-Lawrence and other members of the LP when they joined Mr. Musa Hassan Bility and executed a Memorandum of Understanding in a meeting held at the Farmington Hotel in Margibi County that despite all of these, and with the NEC being fully abreast, yet the Hearing Officers and the Board of Commissioners, who had earlier made decisions as to the validity of the LP January 2021 Constitution, amended in December 2021 to reflect the Farmington understanding, and who have also recognized the Chairmanship of Mr. Musa Bility opted to entertain the appellants’ challenge to Mr. Bility’s Chairmanship and advocating for the nullification of the January 2021 Special National Convention and the Constitution adopted at that convention, for which reasons Certiorari will lie to reverse the erroneous ruling of the Hearing Officers and the Board of Commissioners; that the appellants alleged that a special investigative committee was set up to investigate Emmanuel Azango’s complaint against the LP’s January 2021 Special National Convention as been illegal. One would wonder where did Senator Nyonblee Karnga Lawrence, derive the authority to set up such a committee? that, Senator Nyonblee Karnga-Lawrence, was with no authority absolutely to set up a special investigative committee. Therefore, the report from such special committee is self-serving and violative of the LP January 2021 Constitution; that for sundry the many reversible errors made by the National Elections Commission (NEC) Certiorari will lie to review these unlawful and illegal rulings. Appellants therefore prayed this Honorable Supreme Court to order the issuance of the remedial writ of Certiorari against the appellants to stay all further proceedings

pending the review of the case by this Honorable Supreme Court and grant any and all further relief that Your Honor will deem just, legal and equitable.

Upon receipt of the appellees' Petition for the Writ of Certiorari, the Justice in Chambers at the time, Mr. Justice Yussif D. Kaba ordered the appellants to file their returns as required by law. In obedience to his order, the appellants filed their returns on December 7, 2022 and sternly contended that, the appellees' petition is a fit subject for dismissal because it is in violation of *Chapter 5, subsection 5.12, paragraphs 5 and 6 of the New Elections Law of Liberia, approved September 29, 1986*; which require that decisions of the Hearing Officer may be appealed within 48 hours to either the Board of Commission of the NEC or the Supreme Court of Liberia. The appellants contended that these provisions of the Law was ignored by the appellees thus making the entire petition fatally defective and intended to delay the investigation of the complaint currently under consideration by the Hearing Officers of the NEC. The appellants asserted that there is no matter pending before our court between the same parties, same subject matter as alleged by the appellees in these proceedings; that the case referenced by the appellees before the Civil Law Court is the case filed by Mr. Emmanuel Azango against Musa Hassan Bility, Martin Kulah, Wade Powell, Mornalyn Bendu Barclay, Powo C. Hilton and others; and the action in the proceedings is the Petition for Declaratory Judgment, and the prayer thereto is self-explanatory; that the complaint that NEC is currently investigating/hearing is self-explanatory in term of parties, content and the prayer thereto. The instant case is filed against the NEC and Musa Bility; that the Hearing Officers' ruling denying the appellees motion to dismiss and the Board of Commissioners sustaining said ruling was proper and in keeping with our law; and that it is misleading that the Board of Commissioners of the NEC denied the appellees petition for judicial review without saying any reason. The Board of Commissioners' ruling was clear and to the point that it has reviewed the petitioners' petition and found out that the ruling by the Hearing Officers dismissing the petitioners/movants' motion was not in error, therefore to suggest that the Board ruled without giving any reason is disingenuous on the part of the appellees. Therefore, count two (2) been dishonest, same has to be denied along with the entire petition; that the Honorable Supreme Court of Liberia has opined in countless opinions and decisions that Actions will not be reviewed in piece meal especially when appellate review is legally available to a party litigant. Consequently, appellees should be accordingly so instructed and this matter remanded for the continuation of the investigation before the National Elections Commission, as mandated by the Constitution and the Elections Law of Liberia. Therefore, the appellants prayed the Court to deny the issuance of the alternative Writ of Certiorari and

quash the entire Petition; order the National Elections Commission Hearing Officers to resume jurisdiction and continue the investigation of complaint.

Upon receipt of the appellants' returns, hearing was had and Mr. Justice Kaba ruled in favor of the appellees. An extensive ruling entered by Mr. Justice Kaba addressed several issues to include the following: a) Whether the petition for a writ of certiorari is properly filed before this Court?; b) Whether the NEC, as the administrative agency responsible for conducting national elections, regulating and supervising political parties, may entertain or maintain a complaint of illegal filing of alleged doctored party document?; c) Whether the doctrines of *lis pendens* and *res judicata* are applicable in this case? And; d) whether certiorari will lie?" Predicated upon these issues, Mr. Justice Kaba ruled granting the peremptory writ of certiorari, and ordered the clerk of this Court to send a mandate to the NEC to resume jurisdiction over this case and proceed to enforce the Ruling. We quote the conclusive portion of the Justice's ruling:

"...considering that the NEC lacks jurisdiction over the subject matter of the co-respondents' complaint insofar as the declaration of the validity of the January 2021 Constitution is concerned; considering that the issue concerning the withdrawal of the Liberty Party's 2021 Constitution filed with the NEC was finally decided by the Board of Commission, however not appealed; and considering that there are pending petitions for declaratory judgments between the parties in the Sixth Judicial Circuit for Montserrat County, it is my holding that the NEC erred when it denied and dismissed the petitioners' motion to dismiss the co-respondents' complaint filed before it.

WHEREFORE AND IN VIEW OF THE FOREGOING, the peremptory writ of certiorari is granted. The clerk of this Court is ordered to send a mandate to the NEC to resume jurisdiction over this case and proceed to enforce this Ruling. AND IT IS HEREBY SO ORDERED".

The appellants noted exception to this ruling and announced an appeal to this Court en banc. The matter is now before this Court, as the final arbiter of justice, to review the records in its entirety and make final determination consistent with law. Chapter VII, Article 66 of the Constitution (1986) establishes the Supreme Court is the final arbiter of Justice in the Republic. It states that,

"The Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein" *Article 66 Constitution (1986)*.

The Supreme Court has the constitutional authority vested in it as the final arbiter of all cases and matters arising within the Republic of Liberia. Like Article 20(b), which unambiguously grants to every aggrieved party the right of appeal, Article 66 of the Constitution makes the Supreme Court the final arbiter of all matters of a judicial nature. Many opinions have been delivered by this Court relying on and supported by Article 66: *Beyan et al. v King Peter's Orphanage* [2013] LRSC 45 (1 August 2013); *Williams v Tah et al* [2011] LRSC 12 (21 January 2011). It is predicated upon this constitutional basis, supported by opinions of this Court, that the appellants have the legal pathway to seek judicial consideration of their exception taken and appeal announced from the ruling of the Justice in Chambers to this Court en banc. Accordingly, it is important to note forthwith and with particularity that this Court firmly and resolutely highlights the fact that it is not under a legal duty to address all issues raised by the parties in a case. Only issues that are determinative of a controversy would be properly raised and legally determined. As a matter of precedence, this Court had opined in litany of cases that, "The Supreme Court is not required to pass on every issue raised in the bill of exceptions or briefs; it is within the province of the Supreme Court to pass upon issues it deems meritorious or relevant and justiciable". *LIBCO v Collins* [1990] LRSC 18; 36 LLR 828 (1990) (9 January 1990) *LAMCO v Verdier* [1978] LRSC 9; 26 LLR 445 (1978) (3 February 1978). There were several issues raised by the parties in this case, to include subject matter jurisdiction, pendency, res judicata, and the likes. However, this court will address issues that are relevant and dispositive of this case.

Having reviewed the records, listened to oral arguments, and considered the law citations relied upon by both parties, this court believes that there are two salient issues for the determination of this case. They are:

1. Whether or not, the National Chairman and Secretary General of a political party have the authority to submit the Political Party's constitution and/or its amendment to the National Elections Commission?
2. Whether or not, the National Elections Commission has jurisdiction to determine issues or inference of fraud within a political party's constitution or make declaration regarding alteration or illegality of a political party's constitution?

We shall address these issues in the order in which they are presented; beginning with, Whether or not, the National Chairman and Secretary General of a political party have the authority to submit the Political Party's constitution and/or its amendment to the National Elections Commission? The appellants contend, amongst other things, that pursuant to the authority granted to the Political Leader under the 2015 Constitution of Liberty Party, she convened and presided over a special convention held in Gbarnga, Bong County, on January

23, 2021; that after the adjournment of this special convention, partisan Emmanuel Azango filed a complaint to the Political Leader and Chairman of the special convention, stating that the entire electoral process was poked and riddled by constitutional violations and procedural breaches citing Articles V, VI and XII of the 2015 Constitution of Liberty Party under which the convention was held. The appellants contended that the Political Leader requested for the report of the special convention including the recently adopted Constitution for review, approval and onward submission to the National Elections Commission (NEC) in keeping with *Chapter III Section 3.4d of NEC's Regulations and Guidelines (2017) relating to Political Parties and Independent Candidates* which requires that the report of a national convention is to be submitted by the Chairperson of the convention, in this case, it was the Political Leader of Liberty Party, Senator Nyonblee Karnga Lawrence, that chaired the convention. The appellants alleged that it was later learned that the 2021 Constitution had been signed, notarized, irregularly and unlawfully submitted by Musa Hassan Bility, who was 'elected' National Chairman; that in violation of the said Regulation and Rules of the NEC, Musa Bility notarized and submitted an altered constitution with provisions different from what was deliberated upon and approved by the January 23, 2021 Special Convention. The appellants contend that NEC, being the statutory regulator of all political parties, and being duly represented at the January 2021 Special Convention, was under legal duty and obligation to reject an instrument that was improperly and irregularly submitted to it by unauthorized individuals as prescribed by the Liberty Party's Regulation and Guidelines; especially so that NEC attended LP's January 2021 Special Convention by and through its authorized representative. Predicated on the above contention, the appellants demanded the NEC to return the illegal and altered document and have same replaced.

The appellees on the other hand asserted that as National Chairman and Secretary General of the Liberty Party, duly inducted into office and commenced the performance of their respective duties and responsibilities in keeping with the Constitution of the Liberty Party, were within the ambit of the New Elections Law of Liberia and the Party's Constitution when they submitted the Liberty Party's amended Constitution to the NEC. The appellees further contended that as administrators of the party, they have the authority to direct the daily affairs of the Party offices and make decisions in the interest of the party; that in order to operationalize and make effective the amended constitution of the party, they were under the legal duty to deposit the amended constitution with the NEC as required by law, and so they did. Therefore, appellees considered their action legal and in compliance with the party's constitution.

To properly address this contention of the parties, we take recourse to relevant portion of the Liberty Party's constitution of 2015 and its amendment of 2021. Article VI of the Constitution (2015) of the Liberty Party, captioned, Officers and Functions states,

(1) The Standard Bearer/Political Leader

- a. Following the conclusion of the Party's primaries and/or causes, the Presidential nominee shall be deemed the Standard Bearer of the Party. The Standard Bearer shall be formally elected at the National Convention to serve as the national candidate for President of Liberia for the ensuing Presidential and general elections. The Standard Bearer shall be the leader and Chief Representative/Spokesperson of the Party.
- b. The office of Standard Bearer shall cease to exist six months after the immediately preceding presidential election. If the Standard Bearer is elected President of the Republic, he/she automatically becomes Political Leader of the Party and remains as such until after the next Presidential election. However, if the Standard Bearer does not win the presidential election, she/he shall thereafter act as Political Leader until a Political Leader is elected by the Executive Council following a post presidential election Special Convention.
- c. In the absence of the National Convention, the Standard Bearer shall guide and direct the national affairs of the Party through the Executive Council until she/he is replaced by the Political Leader.
- d. The Standard Bearer or Political Leader with the advice and consent of the Executive Council shall formulate policy and procedures to implement the decisions of the national convention.

(2) The National Chairman

- a. The National Chairman shall be the Chief Administrative Officer of the Party.
- b. He shall coordinate all activities of the Party under the supervision and direction of the Standard Bearer or the Political Officer.
- c. The Chairman shall direct the daily affairs of the Party offices and appoint and supervise junior staff members as may be necessary to carry out his function.
- d. The Chairman shall coordinate the activities of the Standard Bearer or the Political Leader, as they relate to the National, Counties and Membership Group offices and carry out the mandates of the Executive Council and/or Executive Committee as the case may be.
- e. The Chairman shall call and preside over meetings of the Executive Committee of the Party.
- f. The Chairman shall be the presiding officer of the National Convention when it is in regular session, except when another Convention Chair is appointed by the Standard Bearer or Political Leader.

The National Secretary General

- a. The secretary shall be in charge of all the official documents of the Executive Committee and the preparation of the necessary notices. Minutes and other documents. He/she is the records custodian of the party
- b. He/she shall sign all official communication of the party, prepare minutes of the national convention. The executive council and the executive committee,

maintain the official membership roster and perform other duties as may be assigned by the standard Bearer or political leader or the national chairman

- c. He/she may be assisted by one or more secretarial general as may be appointed by the chairman upon approval of the standard bearer of political”.

Relevant provisions of the 2021 Gbarnga Special Convention states the following to wit:

“Standard Bearer/Political Leader

The Standard Bearer shall be formally elected at the National Convention to serve as the candidate for President of Liberia for the ensuing presidential and General elections. Following the conclusion of the Party’s primaries, the Presidential nominee shall be deemed the Standard Bearer of the Party. During an election year, the Standard Bearer shall be the leader and Chief Representative/Spokesperson of the Party.

If the Standard Bearer is elected President of the Republic of Liberia, he/she automatically becomes Political Leader of the Party, and remains as such until after his/her tenure. However, if the Standard Bearer is not elected President, the Standard Bearer position shall cease to exist ninety (90) days immediately after the Presidential election and the Standard Bearer shall automatically become the Political Leader.

The Standard Bearer Political Leader in consultation and collaboration with the NEC shall formulate policy and procedures to implement the decisions of the National Convention, call Special Conventions as provided for in Article VIII, and take such other actions and proper measures that he/she may deem as necessary to advance the best interest of the Party.

National Chairperson

The National Chairperson shall be the Chief Administrative Officer of the Party. He/she shall serve or act as Leader and Chief Representative/Spokesperson of the Party in the absence or incapacitation of the Standard Bearer/Political Leader and he/she shall:

- a. Direct and coordinate the affairs of the Party in collaboration with the NEC;
- b. Carry out mandates of the National Convention and Special Convention, NEC and be the presiding officer of the National Convention, except as provided for under Article VIII.
- c. Coordinate the activities of the Standard Bearer/Political Leader, as they relate to the National and County offices and Diaspora Chapters;
- d. Call and preside over meetings of the NEC;
- e. Appoint and supervise junior staff members as may be necessary to carry out his function.

The National Secretary General

The national secretary general (secretary general is the head of the secretarial and serves as the chief administrative officer of the secretarial presiding over all meetings of the secretarial he/she is assigned by deputy secretary general as may be appointed by the NEC.

The secretary shall:

- a. Coordinate and supervise activities of all deputy Secretary Generals

- b. Serve the chief records custodian of the party and be in charge of all the official documents of the NEC and the preparation of the necessary notices, minutes and other documents;
- c. Sign all official communications of the party prepare minutes of the national convention, NEC and secretariat;
- d. Along with vice chair for membership, maintain the official membership roster;
- e. Perform other duties as may be assigned by the NEC.

The Secretary General reports to the chairman.”

From the careful perusal and reading of the above quoted provisions of the Constitution of the Liberty Party, it is unambiguously cleared that all administrative matters are handled by the Chairman of the Party. The Chairman, amongst other things, has the authority to run the day to day affairs of the party; to direct and coordinate the affairs of the Party in collaboration with the NEC.

During arguments before this Court, the counsel for the appellants maintained that the appellees were inducted into office after their respective elections during the Liberty Party special convention held in Gbarnga, Bong County. This means that, the appellees were given the authority to officially begin the performance of their respective duties and responsibilities for the offices which they occupy. This Court says, when officers-elect are inducted into office, it gives them the leverage, power and authority to perform all duties and responsibilities as it pertains to that office. As a matter of law, nothing stopples or hinders the performance of legal duties and responsibilities when one is inducted into office except otherwise provided by law. Even though the processes and procedure leading to the special convention, election of the appellees and other related issues are being questioned by the appellants, which also form the basis of the appellants’ complaint to the Hearing Officer of the NEC, in the absence of a judicial determination of the legality of the special convention, the legality or illegality of the election results, the appellees remain in their respective positions and whatever action(s) taken by them are considered legal until otherwise. Consequently, it is important to note that *Section 3.4(d) of the New Elections Law* which the appellants relied upon in questioning the appellees authority to submit the 2021 amended constitution of the Liberty Party to the NEC, and referenced by appellants’ counsel during arguments before this Court, states:

“Section 3.4: Procedures for Nomination of Political Party Candidates, National and Local

- a. Within ten (10) days following the convention, a political party shall submit to the Commission a list of its national and local officials, including those of the national executive committee indicating the political sub-division that each of them represents. Said submission shall be under the signatures of both the chairperson and secretary general of the convention committee. [Emphasis supplied]

This provision of the Elections law supersedes and supplants all other political party laws that run contrary thereto. This means that, constitutions and regulations of political parties must be in consonance with the provision of the New Elections Law, especially relating to the submission to the Commission of list of their national and local officials, including those of the national executive committee, indicating the political subdivision that each of them represents after their conventions. This Court says that this is a mandatory requirement that all political parties must take cognizance of and comply with.

The law further emphasizes that submissions must be done under the signatures of both the chairperson and secretary general of the convention committee. Considering the facts and circumstances in this case, the instrument which is the subject of these controversies is the Liberty Party “Amended Constitution” and not the list of national and local officials, including those of the national executive committee indicating the political sub-divisions that each of them represents. So, this provision of the law is not applicable to this case. We agree with our distinguished colleague, Mr. Justice Yusuf D. Kaba when he said in his ruling pertaining to the issue that,

“...The texts of the above quoted regulations and guidelines did not expressly state under whose signatures an amended political party’s convention document including the constitution should be filed with the NEC; rather section 3.4(d) authorizes the chairperson and secretary general of the convention committee to, within 10 days following a convention, submit to the NEC the list of national and local officials including members of national executive committees. The referenced section is absolutely silent on how a document such as the party’s constitution adopted in a convention should be filed. It is the maxim of law, *expressio unius est exclusio alterius*, that is, when one or more things of a class are expressly mentioned, others of the same class are excluded. However, a further search of the law or rules governing the procedure for the filing of an amended constitution of a political party led us to Article 79 of the Liberian Constitution (1986) which provides in part as follows:

“No association, by whatever name called, shall function as a political party, nor shall any citizen be an independent candidate for election to public office, unless:

e) the constitution and rules of the political party shall conform to the provisions of this Constitution, provide for the democratic elections of officers and/or governing body at least once every six years, and ensure the election of officers from as many of the regions and ethnic groupings in the country as possible. *All amendments to the Constitution or rules of a political party shall be registered with the Elections Commission no later than ten days from the effective dates of such amendments.*” Emphasis is ours.

Reading the above quoted Article 79 of the Liberian Constitution together with section 2.9(m) of the New Elections Law (2014) *supra*, it can be said that there is no clear guidelines or rules providing as to who is authorized to submit an amended political party constitution to the NEC. It therefore devolves upon us to resort to the Liberty

Party's 2015 constitution, the instrument used to convene the December 2021 Convention in Gbarnga, Bong County. That document is instructive as follows:

"Article VI Officers and Functions

- 2) a. The National Chairman shall be the chief administrative officer of the party.
b. He/she shall coordinate all activities of the party under the supervision and direction of the Standard Bearer or Political Leader...
- (3) a. The National Secretary General shall be in charge of all the official documents of the Executive Council and preparation of notices, minutes and other documents.
b. He/she shall sign all official communications of the party, prepares minutes of national convention, the Executive Council and the Executive Committee and maintain membership roster..."

The functions prescribed herein of the National Chairman and National Secretary General nuanced with the conduct of the petitioners to have submitted the 2021 Constitution of the Liberty Party since they assumed their respective positions as National Chairman and National Secretary General after the Gbarnga Convention. We therefore hold that the question as to the validity or invalidity of the filed 2021 Liberty Party's Constitution with the NEC can be and should be adjudicated in a court of record as such dispute is not cognizable before the NEC.

We fully agreed with the position and analysis made in the ruling of the Chambers Justice; therefore, we shall not belabor this issue. We hold that the appellees have the authority and they acted within the confines of the law when they filed with the National Elections Commission (NEC) the Gbarnga convention amendment of the Liberty Party's Constitution.

We shall now proceed to address the next issue; which is, whether or not, the National Elections Commission (NEC) has jurisdiction to determined issues or inference of fraud within a political party constitution or make declaration regarding alteration and/or illegality of a political party constitution? We say NO. The power to declare a writing illegal or otherwise is a judicial function solely and exclusively vested in our courts of record. Neither the political branches of the Government nor any other authority including administrative agencies such as the NEC can exercise judicial function to declare a document valid or invalid. The *Civil Procedure Law Revised Code: 1: 43.1 and 1:43.2*, provides:

"Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment. The power granted to the court under this section is discretionary

Any person interested under a deed, will, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are

affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.”

Only courts of record may declare rights under a contract (a written document) and/or declare the validity or invalidity of a document such as a political party’s constitution as the facts and circumstances in this case reveals. It was therefore incorrect for the hearing officers of the NEC to have assumed jurisdiction over the subject matter of the validity of the Liberty Party January 2021 Constitution.

A careful review of the records before this Court shows that on August 4, 2021, the appellants had requested the NEC through its Political Officer, Mr. Ignatius Wisseh, to withdraw the 2021 Constitution filed by the appellees. On August 23, 2021, Mr. Wisseh responded that the constitution filed by the appellees was filed “in keeping with the practice and procedures here at NEC, when a party, especially through its chairperson and/or secretary general submits a notarized document such as a constitution to the commission, the general presumption is that said document is proper and remains as such until successfully challenged in keeping with due process or amended by the Party”. According to the appellants, the Liberty Party under the direction of Senator Nyonblee Karna-Lawrence conducted an internal investigation of the complaints of alteration and improper filing of the Liberty Party’s Constitution with the NEC and subsequently annulled the report of the Gbarnga Convention and ordered withdrawn the 2021 Constitution filed with the NEC by the appellees.

Upon communicating the decision to withdraw the 2021 Constitution, on December 13, 2021, Commissioner Teplah Reeves in a letter to the appellants reiterated that until a non-appealable judgment in a court of law or an amendment is presented to the NEC, the documents filed by the appellees are presumed valid. The records also show that the appellants challenged the Commissioner’s opinion before the Board of Commission and that five commissioners of the NEC endorsed Commissioner Reeves’ position. But the appellants contested that the Chairperson of the NEC not having appended her signature to the Board of Commission’s decision, it was not binding; *citing Section 2.6 of the New Elections Law*. Consequently, on April 21, 2022, the appellants filed a petition for a writ of prohibition before the Justice in Chambers of the Supreme Court, now Chief Justice of the Supreme Court, Her Honor Sie-A-Nyene G. Yuoh. The Justice declined to issue the alternative writ; thus, bringing finality to the issue of the withdrawal of the filed 2021 Constitution.

We must note that the decision of the Board of Commission to uphold the opinion of Commissioner Teplah Reeves in respect of the withdrawal of the 2021 Constitution was an appealable decision since it brought finality to the issue of withdrawal of the filed constitution. The referenced letter is cleared and unambiguous. For the benefit of this opinion, we see it expedient to quote below the letter from the Board of Commissioners of the NEC to the appellants:

“Republic of Liberia
National Elections Commission
Tubman Boulevard 9th & 10th Streets Sinkor P.O. Box 2044
Monrovia, Liberia
Email info@necliberia.org

July 21, 2022

Hon. Nyonblee Karnga-Lawrence
Liberty Party
19th Street, Sinkor
Monrovia, Liberia

Dear Hon. Karnga-Lawrence:

We present compliments on behalf of the National Elections Commission, and write in reference to your July 11, 2022 communication.

As you will recall, Honorable Senator, in responding to your previous requests to replace the Liberty Party’s 2021 constitution with the 2015 constitution, the Board of Commissioners on January 10, 2021 repeated the information to partisans of the Liberty Party (LP) that the LP’s 2021 notarized Constitution filed with the Commission on February 26, 2021 is presumed proper and remains as such until successfully challenged in keeping with due process or via amendment by the Party.

Subsequent to the Board’s January 10th communication, the Commission received an assignment from the Honorable Supreme Court, citing the Commission to an April 29, 2022 conference in relation to the petition for a writ of Prohibition filed by you and others in the case: In RE: Karnga-Lawrence et al v. Bility, Kollah and NEC. We note that the information contained in the Board’s January 10th communication was a subject of that petition.

On June 29, 2022, the Commission received the Court’s decision, in which the Justice in Chambers, Her Honor Sie-A-Nyene G. Yuoh, declined to issue the writ prayed for. Hence, the Commission’s information to the Party, concerning how the LP’s 2021 notarized constitution may be challenged or amended by the Party, remains undisturbed.

Subsequent to the herein cited decision of the Supreme Court, the Commission on July 11, 2022 received the instant communication from you, attached to which was a convention report; a notarized constitution signed on July 11, 2022; and the Court’s decision in the matter. In the referenced communication, you stated, among others, that “based on the acknowledgment and commitment of the both parties” to make

corrections to the LP's 2021 constitution and resubmit same to the Commission, the "Justice" did not see the need to issue the writ.

Two days after receipt of your July 11th communication, the Commission received a letter under the signature of Mr. Musa Bility and Mr. Martin Kollah in which they stated that Justice Yuoh did not give any instruction regarding the referenced July 11, 2022 submission made to the Commission; and that they did not sanction the said July 11th submission.

The Commission observes that Justice Yuoh's decision, which the court served on the Commission and is included as an exhibit in your July 11th communication, does not make any mention of an instruction or commitment by the parties regarding the July 11th submission. Without proof to the contrary, the Commission can only act within the confines of the decision the Honorable Supreme Court served on it, which states that Her Honor declined to issue the writ prayed for.

Because your July 11, 2022 communication follows the referenced prohibition proceedings at the Honorable Supreme Court and cites "commitment" reportedly made by the parties during the said proceedings at the Honorable Supreme Court, the Commission will need proof of same and its effect, if any, before it may act on the referenced July 11th submission to the Commission.

Sincerely.

Hon./Cllr. P. Teeplah Reeves
Co-Chair

Hon. Boakai A. Dukuly
Commissioner

Hon./Cllr. Ernestine Morgan-Awar
Commissioner

Hon. Floyd Oxley Savor
Commissioner

Hon. Barsee Leo Kpangbai
Commissioner

Hon. Josephine Kou Gaye
Commissioner"

We are in full agreement with the NEC's January 10, 2021 letter communicated with the parties that the said January 2021 Constitution filed with the NEC "remains proper with the Commission until successfully challenged or amended". Succinctly stated, a challenge to the said constitution ought to have been made in a court of competent jurisdiction to determine the certainty surrounding that document. The NEC as a repository of political parties, alliances and/or coalitions documents can only rely on the non-appealable decisions in a court of competent jurisdiction and nothing more. The appellants, having failed to appeal that decision, but elected to file a petition for a writ of prohibition which was declined by the Justice in Chambers of the Supreme Court on June 28, 2022, the doctrine of *res judicata* will operate to bar the re-litigation of the same issue before the same NEC which held that the withdrawal

of the Liberty Party's 2021 Constitution may be done either by "a non-appealable judgment in a court of law or amendment".

We find it expedient to restate that the certified records before this Court further reveal that when the Justice in Chambers, Her Honor Sie-A-Nyene G. Yuoh declined to issue the writ, the appellants filed a new complaint before the hearing officers of the NEC raising the same issue of fraud, inference of fraud and irregular submission of the LP's amended Constitution, amongst others. The appellees responded or filed returns, with a motion to dismiss, contending, amongst other things, that the case had already been concluded and that the hearing officers do not have the authority to re-litigate the said case. The hearing officers denied the appellees' motion to dismiss, and ordered the case proceeded with on its merits. We note that the appellees sought review of the hearing officers' ruling at the Board of Commissioners of the NEC. The Board of Commissioner confirmed and affirmed the ruling of the hearing officers and ordered them to proceed with the hearing of the case on its merits; thereby causing the appellees to revert to the Justice in Chamber; this time, His Honor Yussif D. Kaba. The Justice raised several issues and passed on all; one of which is the doctrine of res judicata; and ruled in favor of the appellees.

We are not impressed by the argument proffered by appellants, in which they contended that a mere letter from the Board of Commissioners of the NEC is not an administrative decision that is appealable; that the issue of contention requires the taking of evidence, which was not done in the instant case. When the issue was raise before the hearing officers of the NEC, they mentioned in their ruling that they do not consider the letter written to the appellants by the Board of Commissioners of the NEC regarding the LP's constitution as a decision of the Board of Commission of the NEC; that the challenged posed to the LP's constitution requires the taking of evidence; that the exchange of letters between the Commission and the parties is not the exercise of a quasi-judicial function of the Commission. We quote verbatim this portion of the Hearing officers ruling:

"...a review of these two communications indicates that there is a controversy surrounding the LP's 2021 constitution regarding its execution and submission to the NEC. Also contained in these letters is the BOC's position that the LP's 2021 notarized constitution submitted to the commission is deemed proper and remains as such, until successfully challenged in keeping with due process or via amendment by the party. The hearing officers do not consider the position of the BOC regarding the LP's 2021 constitution as a decision but rather that the instrument is deemed proper until challenged. The co-respondents/complainants' complaint now before us suggest that indeed a challenge has been posed to the LP's 2021 constitution which requires our attention and investigation through the taking of evidence. The mere exchange of letters between the commission and the parties are not in our mind the exercise of a quasi-judicial function of the commission." [emphasis supplied]

This Court disagrees with this ruling in its entirety. The NEC Board of Commissioners' ruling, having brought finality to the appellants' complaint at the level of the Elections Commission, and which was not excepted to and appealed by any party, the doctrine of res judicata will certainly lie. Hence, we hold that our astute colleague, Mr. Justice Yussif D. Kaba did not err when he ruled that the doctrine of res judicata applies in the instant case. The doctrine of res judicata has three components as follow: a) an earlier decision on the same issue, b) final judgment on the merits and c) the involvement of the same party, or parties in privy with the original parties. The law provides that when these three essential elements are present in any case, the doctrine of res judicata will operate to bar the subsequent litigation of the same matter involving the same parties concerning the same subject matter; *Karpeh v. Fisher* 23LLR 91, 94 (1974), *Kontar v. Mouwaffak* 17LLR 259(1966). *Liberia Trading Corporation v. Hall* 21LLR 543, 550 (1972); *Kiazolu v. Pearson* 35LLR 550, 558 (1988); *Monrovia Breweries v. Karpeh* 37LLR 288, 300 (1993); *Reynolds v. Garfuah*, 41LLR 362,369(2003).

Having seen from the records that the Justice in Chambers had not transcended his bound, and having reviewed the merits as well as the evidence in this case, we hold that the Justice acted in conformity with pronouncements of this Court made in previous opinions. Thus, we accept and uphold the conclusion arrived at by Mr. Justice Kaba.

The office of the writ of certiorari is to determine whether the conduct of an inferior tribunal or administrative agency was within its jurisdiction and otherwise legal; that is, to control the action of the inferior tribunal and to keep it within its jurisdiction. The function of a writ of certiorari is to correct substantial errors of law committed by a judicial or quasi-judicial tribunal which are not otherwise re viewable by a court. 14 AM JUR 2d., *Certiorari*, at 799." *Farrel/Denco Shipping et al v. Williams et al*, 35 LLR page 476 (1988); the unique office of certiorari specifies that it is a special proceeding to review and correct a lower court's interlocutory ruling or intermediate order. *Vargas v Reeves et al* [1999] LRSC 6; 39 LLR 368 (1999) (21 January 1999). *Wright v. Reeves*, [1977] LRSC 19; 26 LLR 38 (1977). Several opinions of this Court are in support of this provision of the Civil Procedure Law cited, supra, and have always emphasized that certiorari is only granted to review and correct prejudicial errors of a trial court during the pending of a case. (Our emphasis). *Vandevoorde v. Morris and Mirza*, [1956] LRSC 16; 12 LLR 323 (1956); *Wright v. Reeves*, [1977] LRSC 19; 26 LLR 38 (1977); *Maritime Transport v. Koroma*, [1976] LRSC 77; 25 LLR 371 (1976); *Liberia Insurance Agency; Inc, v. Mansour N Ghossen and Bros et al.*[1976] LRSC 1; , 24 LLR 411 (1976); *Doe v. Yancy and Dweh*, [1982] LRSC 4; 29 LLR 455 (1982).

Considering all that has been said, and also restating that this Court is not under obligation to pass on all issues raised by the parties, we hold that the NEC lacks the power and authority to investigate the complaint which partakes of issues or inference of fraud relating to tampering, doctoring and/or altering legal instrument(s), or make declarations regarding its illegality as in this case, the LP's constitution. We further hold that the Board of Commissioners of the NEC decision in this case being final, res judicata will certainly lie.

WHEREFORE AND IN VIEW OF THE FOREGOING, the alternative writ of certiorari is sustained and peremptory writ ordered issued. The Clerk of this Court is hereby ordered to send a mandate to the NEC to resume jurisdiction and proceed in keeping with this judgment. AND IT IS HEREBY SO ORDERED.

Ruling affirmed

When this case was called for hearing Counsellors Augustine C. Fayiah of the Galaxy Law Firm appeared for the appellants. Cllr. Hilton Powo appeared for the appellees.