

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN  
SPECIAL SESSION, A. D. 2023.

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

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Unity Party by and thru its Chairman and )  
All its Executive Officers of the City )  
of Monrovia, Montserrado County, Republic of Liberia )  
.....APPELLANTS )

VERSUS )

APPEAL )

National Elections Commission by and thru its )  
Chairperson Devadatta Browne Lansannah and all )  
Authorized Representatives, of the City of Monrovia, )  
Montserrado County Liberia .....APPELLEE )

GROWING OUT OF THE CASE: )

Unity Party by and thru its Chairman and All its )  
Executive Officers of the City of Monrovia, )  
Montserrado County, Republic of )  
Liberia .....APPELLANTS )

BILL OF EXCEPTIONS )

VERSUS )

The National Elections Commission also of the City )  
OF Monrovia, R. L. .... APPELLEES )

GROWING OUT OF THE CASE: )

Unity Party by and thru its Chairman and all its )  
Executive Officers of the City of Monrovia, )  
Republic of Liberia,,.....PLAINTIFFS )

ALLEGED VIOLATION )  
OF CHAPTER 4 OF THE )  
ELECTIONS LAW )

VERSUS )

The National Elections Commission also of the City )  
Monrovia, R.L. ....Defendants )

HEARD: SEPTEMBER 28, 2023

DECIDED: OCTOBER 5, 2023

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This Court has been called upon by the Unity Party, Appellants, to determine whether the National Elections Commission, Appellee has violated Chapter 4, entitled “Conduct of Elections”, particularly Section 4.1(2) of the New Elections Law with respect to the number of registered voters in a voting precinct.

Before proceeding into the allegations laid in the Complaint by the complainant, the Court will undertake a brief historical review of section 4.1(2). Pursuant to a mandate that devolved upon it, the Legislature in 1986 enacted the New Elections Law, which provided at Section 4.1(2) that the number of registered voters in any precinct shall not exceed 1000. In 2004, the National Transitional Legislative Assembly amended this section by the Elections Act of 2004, approved December 17, 2004. As amended, the Act provides that:

“The number of registered voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed two thousand (2000).”

In 2014, the Legislature passed another Act titled: “An ACT TO AMEND CERTAIN PROVISIONS OF THE 1986 ELECTIONS LAW approved September 17, 2014 and published December 15, 2014. The new Act, which amended Section 4.1(2), provides that:

“The number of registered voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed three thousand (3000).”

This Court notes from the foregoing, that the section at issue has evolved, in that in the 1986 phrase, that is, “that the number of registered voters in any precinct shall not exceed 1000” was amended in 2004 and 2014 to read thus, “The number of registered voters in every precinct shall be approximately equal”. Secondly, the phrase “and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed three thousand (3000)” as found in the 2004 and 2014 legislations is absent in the 1986 legislation.

The powers and authority of the NEC over elections are derived both from the Constitution and Acts of the Legislature, and the exercise of such powers by the NEC must be consistent with the Constitution and the Elections Law.

The Legislature, in pursuance of its constitutional mandate to enact the Elections Law, has under Section 2.9 of the said law granted many powers and duties to the NEC. Among them are those found under Section 2.9(c), (h)(1) and 4.1(2). These subsections are quoted below:

“ (c) To propose to the National Legislature for enactment, amendment and repeal of any provision of the Elections Law.

(h) Formulate and enforce guidelines controlling the conduct of all elections for elective public offices which guidelines shall not be inconsistent with the provisions of the Constitution and the Elections Law.

(l) Establish constituencies in every political sub-division and reapportion the same when deemed necessary and expedient in accordance with population figure.”

The statute also provides at Section 4.1(2) relating to Voting Precincts the following:

“The number of registered voters in every precinct shall approximately be equal, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed three thousand (3000).”

The above enumerated powers of the NEC are to be exercised consistent with the Constitution, which established it and the Elections Law which reiterated its establishment and outlined its structure and powers. The Commission cannot confer upon itself any power that has not been delegated to it either by the Constitution or the Elections Law.

With the above historical review, the Court shall now turn to the records certified to it. This is an appeal from the final ruling of the Board of Commissioners (BOC) of the National Elections Commission (NEC), which confirmed the ruling of the Hearing Officers of NEC. The Appellant herein is Unity Party, one of the participating political parties in the 2023 Presidential and Legislative Elections. The records

reveal that on August 31, 2023, the Unity Party filed with the NEC a complaint against that institution, alleging that the NEC was in violation of section 4.1(2) and 4.2.1 of the Elections Law in respect to the number of registered voters at a precinct. To capture the full essence of Appellant’s letter of complaint, we quote same below verbatim:

“31 August 2023

Madam Davidetta Brown Lansanah  
Chairman  
National Elections Commission  
9<sup>th</sup> Street and Tubman Boulevard  
Monrovia, Liberia

Dear Madam Chairman:

RE: UNITY PARTY COMPLAINT OF VIOLATION OF CHAPTER 4  
SECTIONS 4.1.2 & 4.2,1 OF THE 2014 REVISED NATIONAL  
ELECTIONS LAW

We write to present our compliments and wish to inform your office of the violation of Chapter 4 Section 4.1.2 of the 2014 Revised National Elections Law, which states, “the number of voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed 3000, and Section 4.2.1 which states, “THE COMMISSION shall determine and publish the location of polling places to serve the voting precincts. The location of a polling place may be changed by the commission if it determines that it is necessary. The commission shall post signs showing the new location at least a week before the start of polling, unless the change is caused by an emergency in which case signs for the new location shall be posted as soon as possible.”

Unity Party has discovered that 93 voting precincts in nine counties constituting 4.5% of all voting precincts in Liberia have more than 3,000 registered voters. The intentional violation of the law cited above must be corrected immediately for the following reasons:

1. Overcrowded precincts create long waiting lines that discourage voters’ turnout especially amongst the elderly and illiterate voters.
2. Overcrowded precincts create opportunities for voters’ fraud including ballot stuffing.
3. Overcrowded precincts may cause the elections commission to create new polling places on short notice and this could cause voters to not find their polling places or be discouraged from voting because they have been made to move to further away places.

We therefore call upon the National Elections Commission to follow the law as prescribed by correcting the errors highlighted hereinabove and ensure that all voting precincts are not more than 3000 as required by law.

Yours Sincerely,  
Amos B. Tweh  
National Secretary General”

The NEC, by and thru its Legal Counsel, Counsellor Peter Y. Kerkula, filed an answer to the complaint, entitled “Respondent’s Answer”, wherein it denied any violation by the NEC and justified that the plain reading of Section 4.1(2), especially the phrase, “unless the Commission in any particular case so determines, permits a voting precinct to have more than 3000 registered voters, if the commission so determines. We also reference the further response of the NEC to the complaint filed with it by the Unity Party.

(c) That a precinct consists of several polling places, and the maximum number of voters assigned to any polling places is 510; there will be series of dedicated spaces/rooms where voters will be directed by trained staff to their respective places;

(d) That Respondent denies the allegation of fraud because a voting precinct has more than 3000 voters and justified that there are 5,890 polling places, and each polling place comprises of an average of five NEC staff, party/candidate agents and at times, observer; parties and candidates have always been encouraged to recruit, train and deploy in time for the conduct of the election agents per location to observe;

(e) That allegation of Complaint that a precinct with more than 3000 voters is baseless. That with available infrastructure for use during elections, the Commission also considers the results from assessment and the outcome of registration. Polling places are created from registration centers that later become exhibition centers and later, voting precincts.

(f) That the 2020 Special Senatorial Election served precincts, especially 108 were more than 3000 voters and that said elections were held taken into account the records of voters and result therefrom announced and published, without any complaint or apprehension from the public or political parties. Therefore, on the “Doctrine of Precedence” these elections shall accordingly be held consistent with Section 4.1(2) and other related provisions of the NEC Elections Law of Liberia 1986.

(g) The Hearing Officer determined that the main contention of the parties is focused on more than 3000 voters in certain precincts, which according to the Hearing Officer is not disputed; he therefore ordered the parties to proceed to argue concerning “their respective reading of Section 4.1(2) of the Elections Law”.

Thereafter, the Hearing Officer concluded that there is a single issue presented which is, whether the language of Section 4.1(2) permits the NEC to register more than 3000 voters at any precinct. In deciding this issue, the Hearing Officer ruled as follow:

“Let us look at Section 4.1(2) again: **the number of registered voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of voters in any precinct shall not exceed 3,000**”. The reference text is divided into three parts. The first clause states that the number of voters at each precinct must be approximately equal. While approximate does not mean exact, the clause suggests that the number must be as close to each other to the extent possible. The second clause which reads...” and unless the Commission in any particular case so determines...” states [gives] NEC the authority to register more than 3000 voters at any precinct when so warranted. This suggests that in certain cases, the NEC may specifically make determination on the number of voters’ particular precincts may contain.

Third and final clause provided generic range of number of voters which shall not ideally exceed 3000 per precinct. (“...the number of voters in any precinct shall not exceed 3000”). This portion of the referred text comes in the latter after the NEC may not have in any particular case determine(d) that any precinct requires the number of voters there not being firstly, approximately equal to the rest, or secondly exceeding 3000 voters.

The Hearing takes administrative notice of similar situation which occurred in previous elections whereby respondent constituted some precincts having more than 3000 voters and others having far less than 3000, in some cases not even a quarter of the 3000 voters...”

The Hearing Officer dismissed the complainant’s complaint. Being dissatisfied with the Hearing Officers’ ruling, the Appellant appealed to the Board of Commissioners (BOC) of the NEC for review of the Hearing Officer’s Ruling. The BOC, after hearing of the appeal and the arguments advanced by the parties, confirmed the Ruling of the Hearing Officer. Not being satisfied with the decision of the BOC, the appellant noted exceptions thereto and announced an appeal to this Honourable Court. In furtherance of perfecting its appeal, the Appellant filed a 13 count Bill of Exceptions. Because the 13-counts contain some averments similar to the letter of complaint and a recitation of errors committed by the Hearing Officer, quoted above, the Court takes note of counts 3, 4, 5, 6, 7, 8, and 9 of the Bill Exceptions that relate to errors committed by the BOC, and as quote below:

“3) Appellee/Defendant is in outright violation of **chapter 4.1.2** of the Revised National Elections Law “The number of voters in every precinct shall be approximately equal, and unless the commission in any particular case so determines, the number of registered voters shall not exceed 3000.

“4) Appellant/Complainant gave notice to the fact of the 2080 precincts utilized for the voter’s registration across the length and breadth of the country, it is discovered that nine (9) counties (Bong, Grand Bassa, Montserrado, Gbarpolu, Margibi, Grand Cape Mount, Lofa, Nimba and Grand Gedeh registered oversized precincts. The number of oversized registered voters amounts to ninety-three (93) constituting (4.5%) of 2080 precincts registered over three thousand (3000) voters. This constitutes a total 317,764 registered voters as indicated below:

a) Bong County	8 precincts	28, 678 Registered voters
b) Gbarpolu	1 precinct	3046 Registered voters
c) Margibi	6 precincts	20, 777 Registered voters
d) Lofa	4 precincts	14, 537 Registered voters
e) Nimba	1 precinct	3,122 Registered voters
f) G. Bassa	1 precinct	3,427 Registered voters
g) G. Cape Mt.	2 precincts	7, 384 Registered voters
h) G. Gedeh	1 precincts	3, 678 Registered voters
i) <b>Montserrado</b>	8 precincts	28, 678 Registered voters

“ 5) The Board of Commissioners committed a reversible error on the basis that the entire **Final Ruling of the Chairman, Co-Chairman and Members of the Board of Commissioners of the National Elections Commission (NEC Board)** ignored the fundamental issue before the Board of Commissioners as to whether or not **National Elections Commission(NEC)** [Commission], Board of Commissioner can conduct voters registration exercise exceeding 3000 registered voters pursuant with **Section 4.1(2)** of the Elections Law of Liberia prior to holding the General and Presidential Elections scheduled for October 10<sup>th</sup> 2023? No! the law must be amended by the Legislature to enable the Board of Commissions to exceed the benchmark.

“6) Complainant/Appellant says and contends that you as Board of Commissioners (Hereinafter Board) was in utmost **Error** when he upheld the

ruling of the Hearing Officer against the **Appellant/Complainant** dismissing UP's complaint on the grounds that inter alia that "NEC utilizing the exception to determine for any precinct exceeding 3000 voters, the plain reading of Section 4.1(2) of the Elections Law clearly permits the NEC to register more than 3000 registered voters at any precinct when so determined, as a qualified Liberian should be denied registration.

"7) The Board of Commissioners committed a reversible error when it ruled that "A general rule of reading states that when a law is unambiguous that is susceptible to any reasonable interpretation, a tribunal uses the plain meaning and applies the law written. For the records, interpretation of the Constitution, Statutes, Regulations etc. is vested in the Judiciary. Chapter VII, Article 65 and 66 vests powers in the Judiciary to interpret the law and not a tribunal.

"8) The Board of Commissioner committed a reversal error when they ruled that "we take administrative notice that for the 2023 Biometric Voters Registration exercise, the NEC published and used 2,080 voting precincts (which contains 5,890 polling places) as funded in the approved budget. Moreover, in order for a qualified Liberian Citizen to exercise the constitutional right to vote, he or she in keeping Section 3.1 of the Elections Law, must first register at a voter registration precinct established by NEC for the place where he/she ordinarily resides, and all would agree that a qualified Liberian should be turned away or denied the right to register as a voter simply because the registration team at the voting precinct where that Liberian ordinarily resides has registered 3000 person". By adhering to the provisions of Section 4.1.2 of the statute can in no way disenfranchise any Liberian from registering to vote. In instances of this nature, the National Elections Commission has a recourse which by creating additional precincts. Creating precincts is done on a regular basis based on the increase of the population.

"9) The Board of Commissioners committed a reversible error when they upheld the ruling of the Hearing Officer "The first clause states that the number of voters at each precinct must be approximately equal. While approximately does not mean exact, the clause suggests that the number must be close to each other to the extent possible. The second clause which reads "unless the



commission in any particular case so determines gives NEC the authority to register more than 3000 registered voters at any precinct when warranted. This suggests that in certain cases, NEC may specifically make determination on the number of registered voters particular precinct may contain. The third and last clause provides the generic range of number of registered voters which shall not exceed 3000. This portion of the referenced text comes in latter after the NEC may or may not have in any particular case so determined that any precinct requires the number of registered voters there not being firstly, approximately equal to the rest or secondly exceeding 3000 registered voters.”

The Court, taking note of all the contentions of the parties, says that there is one single issue determinative of this case, and that is, whether the Appellee violated Section 4.1(2) of the Elections Law? We again quote the said section as follows:

“The number of registered voters in every precinct shall be approximately equal, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed 3,000.”

As earlier noted in this Opinion, since the Elections Law was passed in 1986, two amendments were made by the Legislature with respect to section 4.1(2), with the 2004 and 2014 legislations omitting the 1986 phrase that reads, “that the number of registered voters in any precinct shall not exceed 1000,” and replacing it with the phrase, “**The number of registered voters in every precinct shall be approximately equal**, and unless the Commission in any particular case so determines, the number of registered voters in any precinct shall not exceed three thousand (3000).” (emphasis added).

A review of the above provision shows three clauses connected in one sentence. The middle clause creates an exception. In the opinion of the Appellant, the Elections Law in section 1.2(p) has defined a precinct as ... “...a designated area containing no more than 3000 registered voters”, thereby placing an upper limit to the number of voters that the appellee may register at any one precinct, and therefore the logical interpretation and construction of the statute under review is that the exception applies to the first clause. It ensures that no precinct should have registered more than 3,000 voters, as reflected in the last clause.

The issue that presents itself for resolution here is this provision's statutory interpretation and construction. This Court has held that "where a statute is clear and unambiguous, effect must be given to it by the appellate Court and the meaning and intention of the legislature not determined by resorting to rules of statutory interpretation. *Richard v. Monrovia Brewery* 19LLR241 The rule is that "the clear and unambiguous language of the statute may not be evaded by any administrative body or Court under the guise of construction; in such circumstances, there is no room for judicial interpretation, and the language should generally be given effect without resort to extrinsic guides of construction." More besides, the interpretation of a statute cannot be capricious, nor is it to be done by inferences or presumption..., rather, the construction and interpretation of the statute must be based exclusively upon words employed and the intent of the lawmakers. *Koffah v. RL*, 13LLR232 In essence, in interpreting statutes, the plain language of the statute is essential. The words used in the statute have to be given their plain and straightforward meanings. This is important to avoid misunderstandings and misinterpretations.

Considering the above, the question for resolution in this appeal is: What is the plain meaning of the provision of the statute under review?

As stated earlier, the provision of the statute under review contained three phrases in one sentence. The first phrase, "The number of registered voters in every precinct shall be approximately equal," is clear, concise, and conclusive. It did not give an upper or lower limit. It is only a statement that all precincts should have approximately equal registered voters. It must be observed that between the first phrase and the second phrase is the connecting word "and". The Merriam-Webster's Collegiate Dictionary defines this as a functional word indicating the connection or addition of items within the same class or type used to join sentence elements of the same grammatical rank and function. The second phrase, "and unless the elections Commission in any particular case so determines", does not convey a complete thought standing alone. The phrase also contains the word "unless," which indicates that that sentence created an exceptional condition for the complete thought. Standing by itself, the entire clause is meaningless. The last clause, "the number of registered voters in any precinct shall not exceed 3000", which is separate from the second clause by a comma, is simply a restatement of section 1.2(p) of the Elections Law, which defines what a precinct is.

Should the statute's first and second phrases be combined and considered as connected, a complete thought will not be conveyed. Moreover, the restatement of section 1.2(p) in section 4.1(2) lends itself to the conclusion that the second phrase is connected and creates an exceptional condition to the third phrase based on the conditions expressed in the first phrase. In this light, the provision instructs the Commission to allot an approximately equal number of voters to each precinct and that unless the Commission in any particular case so determines, the Commission should register at most 3000 persons in any precinct. We reached this conclusion because section 1.2(p), referred to above, had already given the upper limit of the number of voters the Commission may register in a precinct. Therefore, the first phrase reinforces this instruction by elaborating that voters registered in each precinct are approximately equal. This first phrase set a general standard for the number of registered voters in every precinct to be approximately equal. It does not provide any condition or exception that will modify this standard. By the insertion of the word "and" preceding a "comma (,)" after the first phrase, it is clear that the second phrase is specifically connected to the third phrase and has no direct connection to the first phrase.

The next contention is to ascertain the legislative intent for the provision under review. The law in this jurisdiction states that "every statute must be construed with reference to the object intended to be accomplished by it. In order to ascertain this object, it is proper to consider the occasion and necessity of its enactment, the defect or evils in the former law, and the remedy provided by the new one. In interpreting a statute, it is essential to understand its legislative intent. The parties agree that the purpose of this statutory provision is to ensure fair and equal representation of all voters in the election process. By requiring the equal distribution of voters and imposing a maximum limit on the number of registered voters, the framers of the law intended that all voters have easy and unburdened access to the voting precinct and to avoid overcrowding, which has the potential to frustrate and discourage voters thereby depriving them of the rights to exercise their franchise.

The legislature, however, considered that there may be instances in some precincts where following this restricted figure may not be possible. For example, the preliminary report of the recently conducted census shows that the population has increased, but yet there was no new threshold set by the Legislature for constituency demarcation by the NEC. Therefore, the second phrase in the provision confers upon

the Commission the discretionary power in instances like that to make the necessary adjustment to achieve the objective of the election, which is to accord all registered voters the opportunity to vote. Except the Commission, for no justifiable reason, exceed the upper limit for registering voters in a precinct, the Commission has the competence to do so. In the complaint filed before the Commission and the appellant's brief filed before this Court, nowhere is there any averment that the Commission proceeded to exceed the upper limit of registered voters in the precinct listed by the appellant without justification. Therefore, in the absence of a showing of the abuse of any such discretion conferred upon the Commission by section 4.1(2) of the New Elections Law, we hold that the Commission acted within the scope of the authority granted by the provision under review.

WHEREFORE AND IN VIEW OF THE FOREGOING, the appellants' appeal is hereby denied. The Clerk of this Court is ordered to send a mandate to the National Elections Commission (NEC) to give effect to this Judgment. AND IT IS HEREBY SO ORDERED.

WHEN THIS WAS CALLED, COUNSELLORS GEORGE D. W. SAYGBEH, MILTON D. TAYLOR, MOIFFIE KANNEH AND COOPER W. KRUAH APPEARED FOR THE APPELLANT. COUNSELLOR MICAH WILKINS WRIGHT APPEARED FOR APPELLEE.