

JUDGE'S CHARGE

**HIS HONOR NELSON B. CHINEH,
ASSIGNED CIRCUIT JUDGE, FIRST JUDICIAL CIRCUIT,
CRIMINAL ASSIZES B, MONTSERRADO COUNTY,
REPUBLIC OF LIBERIA,**

**AT THE OPENING OF THE NOVEMBER A.D. 2023 TERM OF COURT,
FIRST JUDICIAL CIRCUIT, MONTSERRADO COUNTY**

Topic: Upholding Judicial Integrity: A way of Rebranding the Image of the Judiciary.

Her Hon. Sie-A-Nyene G. Yuoh, Chief Justice, Supreme Court of Liberia;

My Distinguished Colleagues of the First Judicial Circuit, Other Judges of the Courts of Record and Courts of Non Record present; The Attorney General or his Proxy; Officials of Government Present; The President and members of the Liberian National Bar Association and all its Auxiliaries; The President and members of the Montserrado Bar Association; The President and Members of the Association of Trial Judges of Liberia (NATJL); Party litigants; Members of the Fourth Estate, Ladies and Gentlemen of the Jury: Good Morning.

I am pleased to welcome you all to the formal opening of the November A.D. 2023 Term of the First Judicial Circuit Court. Please permit me to remind all lawyers and judges of the subordinate courts in this circuit about their statutory obligation to attend the opening ceremony on the opening day of each and every term of court, and answer their names at roll call. Failure to attend without excuse, will subject the defaulter to be reprimanded or fined in the sum of not less than \$25.00 and not more than \$100.00. While the Statute requires the attendance of lawyers to the opening ceremony, the Constitution provides unto every Liberian, Liberian lawyers been of no exception, the right to vote. This Court says that lawyers who are

absent from today's ceremony for reason that they travelled to distance part of Liberia to exercise their constitutional right have justifiable reason to be excused.

I take this time to appeal to you, fellow Liberians that as we go out to elect our leaders on November 14, 2023, let us put Liberia first. Let us also remember that in peace we can achieve more as a Country and people. Let us discourage all forms of violence during the entire electoral period.

Now, how can we rebrand the image of the Judiciary without upholding the integrity of the Judiciary? Over the years, the integrity of the Judiciary has been ruined. Public confidence in the Judiciary has dwindled due to all forms of judicial manipulations, interference and corruption. Rebranding the image of the Judiciary requires the collective efforts of all judicial actors, to include Judges, Prosecuting, Defense and Private Lawyers, Clerical staff, Ministerial officers, the Press, and Members of the General Public, who serve as Jurors. The manner and form in which each of these justice actors act in discharging their respective task will impact positively or negatively the public perception of the court system in Liberia.

Judges, who are expected to be men and women of integrity, as heads of the courts must learn to take full responsibility of the operation of the court. The judicial canon speaks to who a judge is. A Judge must be punctual in attending court; He must at all times exhibit the sense of neutrality; As Judges presiding over the criminal Assizes, it is expected of us to possess some basic qualities, to include but not limited to being knowledgeable in the law controlling criminal prosecution. Judges must always be cognizant of the fact that court staff and lawyers look up to them for leadership and guidance. A Judge must coordinate activities between the various judicial actors.

Most importantly, a Judge must also refrain from passing judgment without Due Process. Due Process is that principle of law that requires

an accused to be accorded an opportunity to be heard prior to being condemned. The 1986 Constitution of Liberia guarantees this right to all persons regardless of their sex, color or status. Due Process protects the individual's interest and at the same time improves the quality of the administration of justice.

Because laws are dynamic and evolving, all judges in the Liberian Judiciary must be afforded the opportunity for continuous judicial education. In recent past, Liberian Judges were privileged to attend quarterly Judges' trainings. In the absence of external training, a periodic peers review form of training is necessary, most especially so for our newly appointed judges. Let us remember that the court is the last place of hope for mankind on earth and as such should be kept sacred. Judges at all times must distinguish themselves as neutral persons by the manner and form in which they conduct judicial businesses. They must ensure that their judgments are fair and transparent. This will bring a positive change to the manner and form in which businesses are conducted in court, and by this, the public perception of the Judiciary will begin to shift positively. This is a way of rebranding the image of the Judiciary.

and Defense Lawyers are another group of justice actors. While the Prosecuting Attorney is a direct Prosecuting representative of the State party, the Defense Attorney or Public Defender is the legal representative of the criminal defendant before court. A lawyer is either an advisor or an advocate for a party litigant. A lawyer should avoid stirring up litigation. Stirring up litigation is unethical and should not be encouraged. In our adversarial system of jurisprudence, a party litigant who **is represented by a lawyer**, but whose **lawyer** is either incompetent, or is competent but negligent in his or her representation of such party litigant, cannot be assured of a fair trial as the court will not do for a party what that party ought to do for him/herself. Both sides in every case need adequate and efficient representation. The under-representation of a party before court works against the image of the Court. Therefore, during this term, we the Judges assigned to preside over the First Judicial Circuit had

deliberated and resolved that whenever a party is noted to be under-represented, we will continue the proceeding to a later date to afford that party an opportunity to procure the services of additional counsel. Without the assistance of a competent and committed counsel, a party litigant faces the danger of injustice. The Oath that we took as lawyers requires of us to be gentle and honest. Lawyers who conduct results into the miscarriage of justice is equally responsible for any violence or chaos which may come about as direct consequences of a faulty decision. We are committed to ensure that decisions reached in this term under our stewardship will be just and free of external interference and manipulation.

As stated earlier, If the image of the judiciary must be positively restored, legal education must be made mandatory and that same must not be conditioned on the LNBA convention but instead, the Judicial Institute must be empowered or equipped to at all times provide continued legal education for all justice sector actors, to include lawyers. Among the courses to be taught at the Judicial Institute should be "Legal Ethics". It is noted that most of the delay in determining cases brought before court can be attributed to lawyers unpreparedness to proceed with their cases. Even though, the general public is made to believe that the delay of trial and the over crowdedness of the prison with pretrial detainees are caused by the court. This assertion is not true. For instance, many times, when cases are assigned, some lawyers, despite praying for the assignment will elect to stay away or appear only to pray court for continuance. Many lawyers will neglect to file with the court required documents, such as pretrial or legal memorandum, even when ordered by court. Some lawyers will elect to baffle cases by seeking remedial processes before the Supreme Court merely to delay proceeding before the trial courts. It is our prayer that the Supreme Court will discourage lawyers seeking unmeritorious remedial processes before the High Court merely for the purpose of delaying proceeding before the trial court by reprimanding said lawyers once it is established that his or her petition filed with the High Court is

unmeritorious, and is only intended to delay the proceedings before the trial court. Similar action should be extended to lawyers seeking to prolong or unnecessarily delay proceeding before the magisterial courts in this circuit.

The Clerk as administrative head and chief custodian of court's records/documents should take charge of managing the court's records and not allow anyone to use his or her office to temper with documents in the case files. Clerical staff are responsible to receive, keep and retrieve court's record, as such they should be held responsible if documents filed and placed on the case file are missing. Any clerical staff found trading court document should be severely dealt with administratively. All clerical staff should be made to know that they are staff of the Judiciary rather than employees of a particular lawyer or law firm. The record system of the court must be improved upon since it aids the court in making informed judicial decisions. Decision reached in every case is based on the evidence admitted at trial, which evidence are contained in the case file.

Over the years, the Judicial Institute has been striving through its in-service training programs to impart the working of the clerical staff in record keeping and retrieval, but more is needed to be done if the confidence of court users is to be regained. In order to ensure that the integrity of the Judiciary is upheld, the clerk or clerical staff should be instructed or ordered to collect only fees as provided for by statute and no more, and thereafter deposit it in the Judiciary Account. If trading by court staff is discouraged, it will positively shift public perception of the Judiciary.

The Ministerial Officers or Bailiffs are another important group of justice actors that work in the Judiciary. Before anyone is concluded by a Court's judgment, that person must be brought under the jurisdiction of the court. The only person charged with the responsibility to bring a party under the jurisdiction of the court is the ministerial officer. The Judge or Court relies upon the Return of the ministerial officer to determine whether or not a party is brought

under the jurisdiction of the Court. Regardless of how faulty the Return of the Ministerial Officer is, it is what the Judge will rely upon to conclude whether the party is under the jurisdiction of the court or not. As justice sector actors, let us stop manipulating these officers for little or nothing, to make Return contrary to what the truth is. This conduct has the propensity to undermine public confidence in the working of the Judiciary. Corrupting the system does not help. You, as a party, may succeed today but you as a lawyer as well as your client will lack confidence in the system thereafter. How can we improve on the performance of the ministerial officer? As staff of the Judiciary, continuous training at the Judicial Institute is the way forward. A ministerial officer will do better if he or she is trained to know the role he or she is playing in the working of the Judiciary. As judicial actors, the ministerial officers should be taught that criminal defendants are presumed innocent until the contrary is established. As such, criminal defendants must not be subjected to any form of punishment prior to conviction. A staff that is trained but elects to act contrary can be recommended for administrative action. In other words, to work against the negative public perception of the Judiciary, the Judiciary must provide continuous judicial or legal education for all justice sector actors

The Press holds a duty to keep the public informed on happenings within the country, to include the Judiciary, except that the information reported must be factual and not sub-judice. During this term, our doors are open to enable you as reporters to verify your story prior to reporting same, except that the merit of the case will not be discussed with you once the case is sub-judice. Misinformation has the propensity to cause chaos; therefore same should be discouraged by all peace loving persons and institutions. We all, to include members of the Press, have duty to keep the peace of the nation, Liberia. When actual happenings before the courts are reported, the public will be informed and that will positively shift public perception of the Judiciary.

Another group of judicial actors whose works impact the Judiciary is the jury. The jurors are members of the community, not lawyer or employees of the Judiciary, but are summoned to aid the court in determining factual issues. The work of this group is a call to sacred duty - service to nation. It is not an employment. Generally, jurors are not lawyers and because you are not knowledgeable of the law, the judge will instruct you on the law and will expect you to apply it to the facts in reaching your finding/verdict. As jurors, you should be guided by your consciences. The decision you make, if not based on the fact, undermines the integrity of the court.

Party litigants who believe in our Judiciary must be applauded and further encouraged to hold on. Let us see the Judiciary as the point of conflict resolution. The courts must at all times be accessible to courts' users. If public trust is restored in the Judiciary, Liberia will continue to experience peace and economic growth.

Madam Chief Justice, we beg to bring to your attention one of the challenges facing all judges of our motherland, Liberia. The statute says a judge is a government paid official and must be paid adequately; he is forbidden from engaging in any business pursuit. The Constitution also protects judges salaries from been diminished. In the face of these statutory and constitutional provisions, our meager salaries were harmonized, thereby subjecting us to immense hardship. Madam Chief Justice, we pray your indulgence to make a representation to the government of Liberia on our behalf as head of this branch of government.

By the power in us vested as Assigned Circuit Judges, First Judicial Circuit, Criminal Assizes A, B, C and D, I, speaking for my colleagues do hereby declare the November A.D. 2023 Term of Court for the First Judicial Circuit, officially open for business. **AND IT IS HEREBY SO ORDERED.**