

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOHCHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE

IN RE: GRIEVANCE AND ETHICS COMMITTEE (GEC) INVESTIGATIVE REPORT ON COMPLAINT FILED BY ATTORNEY MOHAMMED E. FAHNBULLEH AGAINST COUNSELLORS T. DEMPSTER BROWN AND MARGRET NIGBA.

Heard: November 13, 2024

Decided: February 17, 2025

MR. JUSTICE GBEISAY, SR. DELIVERED THE OPINION OF THE COURT

This case originates from a complaint of Sexual Exploitation, harassment and Abuse (SEA) filed before Independent National Commission on Human Rights (INCHR) of Liberia, by Mrs. Beatrice Wesseh, a staff of the (INCHR), against Attorney Mohammed E. Fahnbulleh, a commissioner, also of the INCHR.

Upon an investigation conducted by the team commissioned by authorities of the INHCR, it found Commissioner Fahnbulleh liable and recommended that he be reprimanded consistent with the Code of Conduct. Not satisfied with the manner in which the report from the investigation was handled by Counsellor T. Dempster Brown, as head of the INCHR, and Counsellor Margaret M. Nigba, Executive Director of “Her Voice Liberia” and Chairperson of the Investigation/Administrative Hearing panel, Attorney Fahnbulleh filed this complaint before the Chief Justice of the Supreme Court against the two individuals as Counsellors of the Supreme Court Bar for unethical conduct.

In his complaint dated January 13, 2023, Attorney Mohammed E. Fahnbulleh alleged that Counsellor T. Dempster Brown, as a Commissioner of the Human Rights Commission, is engaged into the direct practice of law contrary to Article 15 of the Act creating the INCHR, that prohibits Commissioners of the entity from engaging into other occupation or business for which they are paid, which act by Counsellor Brown, according to Attorney Fahnbulleh, violates Rule 29 of the Code of Moral and Ethical Conduct of lawyers; that in June 28, 2022, edition of the Inquirer Newspaper, Counsellor Brown is quoted as using invectives on him and also adjudged him, Attorney Fahnbulleh, guilty before the appointment of a committee to investigate into allegation of Sexual Exploitation and Abuse (SEA) against him; that on January 5, 2023, Counsellor Brown also granted a press interview and during which time

labelled him, Attorney Fahnbulleh, as enemy of the Government and the President of Liberia which puts his life at risk.

As to the allegation against Counsellor Margaret Nigba, head of the SEA Investigation Committee, the complainant alleged that Counsellor Nigba refused to recuse herself from the SEA investigation against him when he requested her to, on ground that he had taken some administrative decision against her when they both worked with the Liberia Anti-Corruption Commission (LACC) which led to her resignation at the time; that Counsellor Nigba omitted, misquoted and lied on him that he confessed to the allegation of the SEA, and used said statement to malign his character in the media; that Counsellor Nigba excluded from his response his denial of the allegation of sexual assault and also failed to mention that he provided call logs to disprove his accuser's allegation of his constant call to her; that he provided video documentary that impeached the credibility of his accuser, Mrs. Beatrice Wesseh, thus exonerating him of allegation of sexual touch; that Counsellor Nigba's refusal to attest to his evidence violates Rule 22 of the Code of Moral and Ethics relating to a lawyer's candor and fairness.

The Chief Justice, upon receipt of the letter of complaint, and in line with the procedure regarding complaints filed against lawyers, forwarded the complaint to the Grievance and Ethics Committee (GEC) of the Supreme Court of Liberia for investigation, and instructing the GEC to also submit a report of its findings and recommendation to the Supreme Court *en banc* through the Office of the Chief Justice.

On January 30, 2023, the GEC forwarded the complaint to Counsellors T. Dempster Brown and Margaret M. Nigba and requested them to file their individual response within eleven (11) days as of the receipt of the copy of the complaint. In compliance thereto, the respondents filed their responses as follows:

Counsellor T. Dempster Brown, in his response, denied exhibiting unethical or unprofessional conduct against Attorney Fahnbulleh, instead, it was Attorney Fahnbulleh, who, having been served with a copy of the sexual harassment complaint filed against him by a female employee of the INCHR, had gone to the press and accused him, Counsellor Brown, of instigating the allegation of sexual harassment against him; that because he and the Vice Chairperson of the INCHR were accused by the complainant of instigating the allegation against him, the INCHR, through its Chairman, communicated with the Civil Society to set up an independent investigation committee to probe into the allegation against Attorney Fahnbulleh; that the committee comprising seven members was set up and selected

Counsellor Margret Nigba as its Chairman; that the committee investigated and found that Attorney Fahnbulleh was guilty of sexual harassment as alleged; that the complainant, upon receipt of the report from the investigation, filed with the Civil Law Court, Sixth Judicial Circuit for Montserrado County, a petition for judicial review which is pending determination. Counsellor Brown further contended that the INCHR, being an integrity institution, and the media having heard about the sexual harassment investigation report involving a Commissioner of the Commission and contacted him, Counsellor Brown, as Chairman of INCHR, he confirmed the report and the findings thereof; that the Counsellor Nigba's committee was not an administrative tribunal but a fact finding committee, hence, Counsellor Nigba did not violate the judicial canons for judges as being alleged by the complainant because as chairman of the investigation committee did not equate to a judge; and that he did not influence the investigation committee's work; hence, his action cannot constitute ethical violation.

As to Counsellor Margaret Nigba, she argued that the reason provided by the complainant for her recusal was not true because she resigned from the LACC on her own volition and not as a result of alleged administrative decision taken by Attorney Fahnbulleh when they both worked for the LACC; that Attorney Fahnbulleh had submitted himself to the investigation without a challenge to her neutrality not until closing of the investigation before the issue of conflict was raised; that the committee being a fact finding process could not and was not required to follow the court process; that the complainant was given due process having submitted to the committee by producing witnesses and also confronting his accuser; that the complainant failed to state the provisions of the Code of Moral and Ethical Conduct of lawyers she allegedly violated because the judicial canons relied on by the complainant were not applicable because she was not a judge; that the video recording produced by the complainant was not relevant because the images contained therein were not recognizable, though he confirmed dancing with the victim; that two members of a committee of seven dissenting on the committee's work cannot invalidate same because dissent is a normal practice in most jurisdictions, including ours.

When the respondents, Counsellors Brown and Nigba, had filed their individual response, the GEC invited the parties for an investigative hearing, and at the conclusion thereof, found that based on the averments contained in the complaint, the matter was criminal in nature, and recommended that the matter be forwarded to the Ministry of Justice for further investigation and if it is proved to be criminal, the accused be prosecuted in keeping with law.

Upon receipt of the Committee's Report, and in accordance with precedent of the Supreme Court to review the same, the Chief Justice instructed, and the Clerk of the Supreme Court forwarded a copy of the report to Attorney Mohammed E. Fahnbulleh, informing him to file a brief before the full Bench of the Supreme Court in defense of the findings and recommendation made by the Grievance and Ethics Committee (GEC) against him. Also, four members of the Supreme Court Bar, Counsellors J. Awia Vankan, Kuku Y. Dorbor, Bhatu Holmes Varmah and Tommy Dougbah, were appointed to serve as *amici curiae* and to file an *amicus curiae* brief to the effect.

When the case was called for hearing, the *amici curiae*, presenting their view on the matter, disagreed with the conclusion of the Committee that the complaint is criminal in nature and therefore should be forwarded to the Ministry of Justice for further investigation and that it had no jurisdiction to hear same. The *amici curiae* contended that the crux of the complaint was ethical violations allegedly committed by the respondents. They however concluded that the conducts of Counsellors T. Dempster Brown and Margaret Nigba did not constitute professional and ethical violations as lawyers, as being alleged by the complainant.

The *amici curiae* reasoned that the findings and decision of an investigative committee, Chaired by Counsellor Nigba, could not be ascribed to her, as an individual, neither did the dissent from two members of the seven-member investigative committee invalidate the findings of the committee which was subject to review by the Board of Commissioners of the INCHR; and that the investigative committee was a body set up by an administrative agency, the INCHR, to probe into a sexual harassment allegation, therefore, it did not have the authority of a court, and Counsellor Nigba presiding as chairman of the committee, could not also be equated to a judge, hence, did not violate Judicial Canon 32, as alleged by the complainant. As to the allegation against Counsellor Brown, the *amici curiae* maintained that as head of the Independent National Commission on Human Right, Counsellor Brown was under obligation to clarify and provide the relevant information to the public on allegation of sexual assault within the institution, and reports emanating from the investigation commissioned by the INCHR, therefore, did not violate the Code of Moral and Ethical Conduct for Lawyers.

The only issue for our determination regarding this matter is: whether the matter out of which the complainant grew is cognizable before the GEC? We answer in the negative.

The primary role of the GEC is to investigate unethical conducts by a lawyer growing out of a lawyer-client relationship or a lawyer's dealing with the court, any action done by a lawyer that falls outside of this basically falls outside the jurisdiction of the GEC.

In the instant case, the initial complaint did not grow out of a lawyer-client relationship but rather that of an agency probing into an alleged harassment against a staff of the agency by another staff of the agency. The role played by the respondents was that of fact-finding and as such assumed the role of a referee to probe into the said complaint to find out whether the complaint had any merits or not. Neither Counsellor Brown nor Counsellor Nigba was ever hired as a lawyer for the complainant and there was no lawyer-client relationship existing between the parties.

Notwithstanding, we have perused the records but are yet to see any valid legal claims of ethical violations by the respondents. The allegations by the complainant as stated supra are flimsy and frivolous as they have no valid backing in law. In an attempt to avoid the very same accusation of bias and prejudice against him (complainant), Counsellor Brown requested the Civil Society to set up a committee to probe into the said matter for the sake of transparency and fairness and whatever the outcome of the said probing or investigation from the hearing conducted by the INCHR, the complainant has a full remedy in law which can rightly be pursued by way of judicial review through the courts because like stated previously, the committee set up was a fact-finding which is subject to judicial review by a court; notwithstanding, the complaint before the GEC alleging ethical violations of the respondents lacks proof, hence, the GEC ruling must be confirmed in this respect.

In consonance with all we have said and the records thereof, we are in agreement with the amici curiae and the GEC conclusion that the respondents did not breach any of the code of Moral and Professional Ethics for Lawyers.

WHEREFORE AND IN VIEW OF THE FOREGOING, the findings and recommendation of the Grievance and Ethics Committee (GEC) is hereby affirmed The Clerk of this Court is ordered to inform the parties of this decision. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS J. AWIA VANKAN, KUKU Y. DORBOR, BHATUR HOLMES VARMAH AND TOMMY N. DOUGBA APPEARED AS AMICI CURIAE. NO COUNSELLOR APPEARED FOR THE RESPONDENT/COMPLAINANT.