

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. YUOH..... CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE..... ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY..... ASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON....ASSOCIATE JUSTICE

IN RE: JUDICIAL INQUIRY COMMISSION REPORT ON MAGISTRATE JAMES E.
DUDU OF BUSHROD ISLAND MAGISTERIAL COURT

Heard: November 14, 2024

Decided: February 17, 2025

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

On July 24, 2023, Madam Victoria Sirleaf filed a letter of complaint with the Office of the Chief Justice, Her Honor Sie-A-Nyene G. Yuoh, against Magistrate James F. Dudu of the Bushrod Island Magisterial Court alleging that for over thirty-four years she has lived at her residence located on Bushrod Island, Montserrado County, without interference from anyone; that on December 5, 2022, Magistrate James F. Dudu ordered her eviction from her property without according her due process in an action of summary proceedings to recover possession of real property filed by Dabah Sarnor against her and all those occupying the property in dispute and under her authority; that she and her tenants were thrown out of their homes, during which process, the roof of her house was damaged, as well as and other parts of her property; that she filed an action of summary proceeding against the Magistrate before the Sixth Judicial Circuit, Civil Law Court, Montserrado County, requesting a review of the Magistrate’s action; that the presiding Judge, His Honor Scheaplor Dunbar, having reviewed her complaint ruled that Magistrate Dudu proceeded wrongly and thereafter ordered the Magistrate to repossess her of her property; that upon entering the property she observed damage to the roof and other areas of the property, whereupon she requested the Magistrate to repair the damage; that Magistrate Dudu’s refusal to repair the roof, prompted her to file a complaint with the Office of the Chief Justice.

In consonance with the applicable procedures, the Chief Justice forwarded Madam Sirleaf’s letter of complaint to the Judiciary Inquiry Commission for the conduct of an investigation and subsequent submission of its findings and recommendations to the Supreme Court. On August 5, 2023, the Judiciary Inquiry Commission (JIC), served Magistrate Dudu with a copy of the complaint, and directed that he filed his response thereto within seven (7) days as of the date of receipt of the Commission’s precept.

In his response, Magistrate James F. Dudu essentially narrated the proceedings conducted in the matter of the summary proceedings to recover possession of real property that was filed

before him at the Bushrod Island Magisterial Court by the Intestate Estate of Amadu Zwannah, by and thru its administratrix, Dabah Sarnor, against Madam Victoria Sirleaf and all those under her authority and control; that a writ of summons was duly issued by the court and served on the defendant/complainant by the Constable, thereby bringing her under the jurisdiction of the Bushrod Island Magisterial Court; that thereafter, several notices of assignment for hearing were issued the parties by the court, but the complainant repeatedly failed to appear, necessitating the filing of a default judgment by the Intestate Estate of Amadu Zwanah, by and thru its administratrix, which was heard, and following the production of evidence, a ruling made in favor of the Intestate Estate; hence, a writ of possession was placed in the hands of the Sheriff to evict Madam Victoria Sirleaf *et al.* from the subject property and thereafter place the Intestate Estate of Amadu Zwanah in possession thereof.

Magistrate Dudu also asserted that upon the rendition of the ruling, the complainant, Madam Victoria Sirleaf, filed an action of summary proceeding against him before the Sixth Judicial Circuit, Civil Law Court; that the circuit judge having entertained arguments on the summary proceeding against him, ruled that he, Magistrate Dudu, had proceeded wrongly in the matter and thereafter ordered him to repossess Madam Sirleaf of her property, which order he did comply with by repossessing Madam Sirleaf of the disputed property; and that at no point in time did he damage the roof or any other portion of Madam Sirleaf's property.

Subsequently, the Judicial Inquiry Commission (JIC) issued out notices of assignment for the hearing of the complaint and the response, to which notices the parties complied by appearing and presenting both oral and documentary evidence to substantiate their respective allegations. Thereafter, the JIC having reviewed the evidence submitted its findings and recommendations to the Supreme Court for appropriate action in consonance with standard precedents appertaining to such matters. We quote the findings and recommendations of the JIC as follows, to wit:

“The Commission’s Findings and Recommendations

1. That there is no corroboration in the testimonies of the Clerk and the Bailiff concerning the conflicting dates of the assignments that prompted the ruling.
2. That there is no record of any kind that the case was ever heard.
3. That Magistrate James F. Dudu did not have a full-scale hearing in the said case before making final ruling in keeping with due process;
4. That there was no lawyer appointed to note exceptions and exceptions to the ruling and announce an appeal since the present complainant was absent, thus the complainant’s constitutional right to appeal was denied.
5. That because there was no hearing in the case, Magistrate Dudu deprived the complainant Victoria Sirleaf of the contested property.
6. That Magistrate Dudu tolerated the abuse and neglect by the Clerk Hellen Tweah and Bailiff Amos Woopay, in respect to the date on the notice of assignment and the conflicting returns thereof.

Based on the facts and findings, Magistrate James F. Dudu violated Judicial Canons 18 and 35, respectively

Judicial Cannon #18 Courts Organization

“A judge should organize the court with a view to the prompt and convenient dispatch of its business and he should not tolerate, abuse and neglect by clerks, and other

assistants who are sometimes prone to presume too much upon his good nature acquiescence by reason of friendly association with him.

It is desirable too, to cooperate with other judge of the same court coming in jurisdiction, and with judge of other courts as member of a single judicial system, to promote the more satisfactory administration of justice.

Judicial Cannon #35 ABUSE OF DISCRETION

“A judge should be subject to disciplinary action for the wanton, and reckless abuse of discretion which become violative of the constitution, statutes and laws.

RECOMMENDATIONS

Based on the facts found, this Commission recommends the following:

1. That Magistrate James F. Dudu be suspended for 12 months without pay.
2. That Magistrate James F. Dudu be referred to the Judicial Institute (JI) for six (6) months refresher in the Judicial Canons, and thereafter, the JI should submit a report to the Judicial Inquiry Commission (JIC) concerning the said training.
3. The Commission further recommends that based on the misconduct of the clerk Hellen Tweah and Bailiff Amos Woopay, administrative actions be taken against them by the Chief Justice through the Court Administrator’s office.
4. That the complainant may seek legal remedy for the loss sustained in a Court of competent Jurisdiction.

Upon presentment of the findings and recommendations of the JIC to the Chief Justice, a copy thereof was forwarded to Magistrate James Dudu by the Clerk of the Supreme Court, upon orders of the Chief Justice, notifying him to file his brief in consonance with the Revised Rules of the Supreme Court. The Chief Justice further appointed four (4) counsellors of the Supreme Court Bar, *viz.*: Counsellors J. Awia Vankan, Kuku Y. Dorbor, Bhatu Holmes Varmah and Tommy Dougba, to serve as *amici curie*, and file required to file their *amici curie* brief.

We quote relevant portions of the *amici curiae* brief as follows:

“...Article 73 of the 1986 Constitution of the Republic of Liberia s as follow, “No Judicial official shall be summoned, arrested, detained, prosecuted or tried civilly or criminally by or at the instance of any person or authority on account of judicial opinions rendered or expressed, judicial statements made and judicial act done in the court of a trial in open court or in chambers, except for treason or other felonies, misdemeanor or breach of the peace. Statements made and acts done by such officials in the course of a judicial proceedings shall be privileged, and, subject to the above qualification, no such statements made or acts done shall be admissible into evidence against them at any trial or proceedings.” Your Honors, from the Report, it is evident that the ministerial officer of the Bushrod Island Magisterial Court served the writ of summons on the defendant in the court below and complainant before the Judicial Inquiry Commission regarding an action of summary proceedings to recover possession of real property against her and all those under her control. The Report also revealed that the complainant madam Victoria Sirleaf and her

lawyer Counsellor Dormity wrote the court on different occasions requesting postponement of the hearing which was granted. Your Honors, the Report further revealed that the judgment rendered by the respondent Magistrate was a result of an application made by the plaintiff's counsel Attorney James Lemah, requesting judgment by default against the defendants. From the review of the Report, it is evident that there are minutes evidencing that the imperfect judgment was made perfect and, it was as a result of such proceedings, the respondent Magistrate James F. Dudu entered final judgment. Additionally, the complainant, Madam Victoria Sirleaf took advantage of the law, practice and procedure when she filed a summary proceeding against the respondent Magistrate at the Sixth Judicial Circuit, Civil Law Court, Montserrado County, to review the decision of the Respondent Magistrate; and as a result of such action, the judgment of the Respondent Magistrate was reversed and he was ordered to repossess the complainant. Therefore, it is no doubt that the acts done by the respondent Magistrate was on account of his judicial opinion and should not be sanctioned by penalty for any judicial opinion rendered or expressed for act done in the course of a trial or in chamber."

This Court lauds the *amici curiae* for their prompt response to their appointment and dedication to their duty as "friends of the Court."

It is the law that "*amicus/amici curiae* are appointed to assist the Court by giving honest and professional advice to aid the Court in reaching a decision and the Court may or may not accept their advice. Ultimately, it is the decision of the Court that prevails." *In Re: Allison v. Jones*, Supreme Court Opinion, October Term, A.D. 2012; *In Re: Contempt Proceedings Against Daniel Tubman, Clinton Brown, Miller Bondo, Varfee Sirleaf, Ernest White, Joseph Kollie, The Acting Paramount Chief of Fauhmah Chieftdom*, Supreme Court Opinion, October Term, A.D. 2022; *In Re: Contempt Proceedings Against Counsellor Frank Musah Dean, Minister of Justice and Attorney General of the Republic of Liberia, and Dean of the Supreme Court Bar and Hon. Ledgerhood J. Rennie, Minister of Information, Cultural Affairs and Tourism*, Supreme Court Opinion, October Term, A.D. 2023.

In his brief, Magistrate Dudu reiterated the averments in his response filed with the JIC, which this Court has already outlined *supra* in this Opinion; hence, we will not burden this Opinion by repeating same.

Firstly, we observed that in their brief, the *amici curiae* relied exclusively on the Constitutional provision of Article 73 which grants judicial immunity to judicial officials such as Magistrates. We uphold this provision of the highest Law of the Land, the Constitution.

The *amici curie* concluded their brief by asserting that the matter filed before Magistrate Dudu being *sub judice*, the magistrate cannot be held to answer to the complaint of Madam Victoria Sirleaf filed before the JIC, given that the case from which the complaint emanates is still pending determination before the court.

The Supreme Court has defined the term *sub judice* as “under or before a judge of a court; under judicial consideration; undetermined. A case is *sub judice* from the time the first document in the case is filed until final judgment shall have been given and executed.”

We note that although the complainant’s action of summary proceedings to recover possession of real property is still pending determination before the Bushrod Island Magisterial Court, the complaint of alleged ethical conduct is separate matter, which is cognizable before the JIC. We therefore hold that the complaint of Madam Sirleaf is cognizable before the Judicial Inquiry Commission for the reasons stated herein. Furthermore, the acts complained of against the erstwhile respondent Magistrate James F. Dudu being very egregious, the advice of the *amici curie* is set aside, and the findings and recommendations of the JIC are upheld. That as the respondent Magistrate, James F. Dudu, no longer serves in the capacity of magistrate, the recommendation of the JIC for his suspension has become moot. The complainant, Madam Victoria Sirleaf, is at liberty to pursue appropriate legal action against him for the alleged damage to her property.

WHEREFORE AND IN VIEW OF THE FOREGOING, the Report of the Judicial Inquiry Commission (JIC) is affirmed. Madam Victoria Sirleaf is at liberty to pursue the appropriate legal action to recover damages, if any, for the alleged injury she sustained on account of the actions of the respondent Magistrate James F. Dudu. 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 Dougba appeared for the amici curiae. Counsellor J. Johnny Momoh appeared for the respondent Magistrate.