

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 H I S HONOR : YUSSIF D. KABA..... ASSOCIATE JUSTICE
BEFORE H I S HONOR : YAMIE QUIQUI GBEISAY, SR..... ASSOCIATE JUSTICE
BEFORE HER HONOR : CEATNEH D. CLINTON-JOHNSON..... ASSOCIATE JUSTICE

GRIEVANCE AND ETHICS COMMITTEE'S REPORT ON COMPLAINT FILED BY MR.
SAMUKAI V. DUKULY AGAINST COUNSELLOR AUGUSTINE TOE.

HEARD: November 12, 2024

DECIDED: February 17, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

Article 75 of the Constitution of Liberia (1986) grants the Supreme Court the exclusive authority to regulate the practice of law in this jurisdiction and, from time to time to make *rules of court for the purpose of regulating the practice, procedures and manner by which cases shall be commenced and heard before it and all other subordinate courts.*

In consonance with its constitutional mandate to regulate the practice of law, the Supreme Court promulgated the Code of Moral and Professional Ethics which is the ethical guidelines for lawyers within this jurisdiction. This Code comprises elements that constitute violations or breached of the Code for which lawyers are held accountable for their wrongful acts. In the absence of any violation of the elements enshrined in the Code, this Court will refuse enforcing any penalty on said lawyers for violation of the Code, since doing so will be introducing the doctrine of ex post facto.

It is in furtherance of the code that on November 9, 2020, Mr. Samukai V. Dukuly, a reporter of Power TV/Power FM, filed a complaint with the then Office of the Chief Justice of the Supreme Court of Liberia, His Honor Francis S. Korkpor, Sr., against Counsellor Augustine Toe. The complainant alleged that he hired Counsellor Augustine Toe to represent his legal interest in removing illegal occupants from his parent's farmland in Zeansue, Bong County, to allow for investors to take over the farmland; that Counsellor Toe accepted to represent him and charged him US\$500.00 (Five Hundred United States Dollars), of which he paid \$200.00 (Two Hundred United States Dollars) as an advance with the understanding that the balance money will be paid as the exercise progressed; that the complainant made numerous telephone calls to Counsellor Toe but his calls went unanswered; after which he made several visit at the law firm of Counsellor Toe; that Counsellor Toe became very annoyed and raved insults at him, for which he had to report the matter to Counsellor Toe's partner, Counsellor

Wefueh Sayeh of the Sayeh and Associate Law Firm who advise complainant to pursue any course of action necessary to have Counsellor Augustine Toe refund his money.

The letter of complaint was forwarded to the Grievance and Ethics Committee (GEC) of the Supreme Court of Liberia for an investigation. The GEC, then forwarded a copy of the complaint to the respondent, Counsellor Augustine Toe for his perusal and response. On December 1, 2020, Counsellor Toe filed his returns and stated that he had known the complainant for many years and on that basis, accepted to represent him; that the complainant paid an initial non-refundable fee of One Hundred and Fifty United States Dollars (US\$150.00) for registration, and that the amount the firm will charged will depend on the volume of work that the firm will do at every level of the litigation, if there will be; that July 24, 2020, the complainant brought US\$200 (Two Hundred United States Dollars) and indicated that One Hundred Fifty United States Dollars (US\$150.00) was for registration, while the balance US\$50 (Fifty United States Dollars) was for respondent July 26 beer; that the complainant incessantly made calls to him for a refund of the money paid; that in spite of this, he has insulted the complainant as alleged.

Following the receipt of the respondent's returns, the GEC convened its investigation on January 17, 2021 and January 20, 2021. The parties appeared and were given the opportunity to narrate their respective stories and to question witnesses of the other party, followed by questions from the GEC. The parties then presented documents in support of their respective positions.

On the 11th of May, A.D. 2022, the GEC submitted to the Office of the Chief Justice a report signed by all members of the Committee. The GEC members were unanimous in their conclusion and recommendations as follows, which we quote verbatim:

“CONCLUSION

Following the Parties' explanation and the queries made by the Committee Members, the Committee concluded that Counsellor Toe was not in violation of the Code for the Moral and Ethical Conduct of Lawyers.

RECOMMENDATIONS:

1. However, the Committee recommended that Counsellor Toe be warned for the insult he rendered against his client and he should watch his language against his client.
2. Moreover, he never explained to his client properly what the amount of US\$200.00 was intended for. However, he did some work for Mr. Dukuly and therefore, he deserved the money collected from Mr. Dukuly.”

Subsequently thereafter, upon the receipt of the report of the Grievance and Ethics Committee (GEC), a copy thereof was forwarded to the respondent by the Clerk of the Supreme Court, upon orders of the Chief Justice, notifying the respondent to file his brief in consonance with the Revised Rules of the Supreme Court. The Chief Justice further appointed four Counsellors of the Supreme Court Bar as *amici curiae* or friends of the Court, namely Kuku Y. Dorbor, Bhartur Cora Holmes Varmah, J. Awia Vankan and Tommy N. Dougbah to file their *amici curie*'s brief with their candid opinion/advise on the side of the law based on the facts and applicable laws controlling.

The *amici curiae* filed a brief before this Court which we quote verbatim:

"In consonance of the complaint, returns, investigation and conclusion, the *amici curiae* raise a single issue determinative of this matter.

1. Whether or not the conduct of Counsellor Toe violates the Code of Moral and Ethical Conduct of Lawyers and, if so, what should be the appropriate sanction for such action?

Argument:

The *amici curiae* answer in the negative. The Amici Curiae say that from careful and thorough scrutinizing of the certified transcribed records from the Grievance and Ethics Committee they are not convinced that Respondent, Counsellor Toe has committed any ethical transgression for which he should be held for violation of the Code of Moral Ethical Conduct of Lawyers. Hence, the Amici Curiae concurred with the recommendation of the Grievance and Ethics Committee.

Wherefore, and in view of the fore going, the *amici curiae* most respectfully say they are in concurrence with the recommendations of the Grievance and Ethics both in laws and substance."

We now address the issue, whether or not the Grievance and Ethics Committee's (GEC) recommendations concerning the respondent are in consonance with law. The Committee's report states that the respondent did not properly explain to the complainant the intended purpose for the US\$200, contrary to the position of the complainant, who, in his complaint said, "Counsellor Toe accepted to represent him and charged him US\$500.00 (Five Hundred United States Dollars), and \$200.00 (Two Hundred United States Dollars) was paid as an advance with the understanding that the balance money will be paid as the exercise progressed."

The records reveal that Counsellor Toe received the amount of US\$200.00 from the complainant, and also by his own statement before this Court regarding the incessant calls and text messages from the complainant which infuriated him so that the respondent unethically is in violation of his oath to always demean himself as a gentleman, and to abstain from all offensive personality.

The records established that Counsellor Toe admitted to the payment of US\$200.00, and also by his own narrative before this court regarding the incessant calls from the complainant, leads any reasonable person to conclude that the complainant's action was unacceptable to him and infuriate the respondent. Hence, this Court is in agreement with the GEC recommendation that Counsellor Toe be warned for the insult he rendered against his client and he should watch his language against his client.

This Court holds that the fact that both the GEC and the amici curiae agreed that the respondent be warned of the insults against his client be made to apologize to his client for such insults in writing, indicates that there is a breach of the Moral and Ethical Conduct of lawyers.

WHEREFORE AND IN VIEW OF THE FOREGOING, the recommendations of the Grievance and Ethics Committee is affirmed with modification that Counsellor Toe is sternly warn not to repeat such act, and in addition he writes a formal letter of apology to the complainant within forty-eight (48) hours as of rendition of this Judgment. The Clerk of this Court is ordered to inform the parties of this decision. AND IT IS HEREBY SO ORDERED.

WHEN THE CASE WAS CALLED FOR HEARING, COUNSELLORS TOMMY N. DOUGBAH, KUKU Y. DORBOR, BHARTUR CORA HOLMES VARMAH AND J. AWIA VANKAN APPEARED AS *AMICI CURIAE*. COUNSELLOR AUGUSTINE TOE APPEARED PRO SE.