

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
HO - A.D. 2021

FILED ON 06-01-2021
03:00pm
REGISTRAR
HIGH COURT HO
SUIT NO.: E10/06/2021

IN THE MATTER OF ARTICLE 99(1) (a) OF THE 1992 CONSTITUTION AND SECTION
16 OF THE REPRESENTATION OF THE PEOPLES LAW, PNDCL 284

IN THE MATTER OF A PETITION CHALLENGING THE VALIDITY OF THE ELECTION
OF JOHN PETER AMEWU AS MEMBER OF PARLIAMENT-ELECT OF THE HOHOE
CONSTITUENCY OF THE REPUBLIC OF GHANA IN THE PARLIAMENTARY ELECTION
HELD ON 7TH DECEMBER 2020

BETWEEN

PROFESSOR MARGARET KWEKU AH-066 Hohoe-Ahado.	1st PETITIONER
SIMON ALAN OPOKU-MINTAH GCA 053 Obetsa- Santrokofi Benua	2nd PETITIONER
JOHN KWAME OBIMPEH AOD-A 427, Odomi, Akpafu.	3rd PETITIONER
GODFRIED KOKU KOFIE LBK 234, Aya Street, Likpe Bakua.	4th PETITIONER
FELIX QUARSHIE House No. LKU -137 Lolobi Kumasi	5TH PETITIONER

AND

THE ELECTORAL COMMISSION William Tubman Road Ridge, Accra.	1ST RESPONDENT
JOHN PETER AMEWU (HON.) Ministry of Energy Accra Ministries, Accra.	2nd RESPONDENT

2

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AND

THE ELECTORAL COMMISSION William Tubman Road Ridge, Accra.	1ST RESPONDENT
JOHN PETER AMEWU (HON.) Ministry of Energy Accra Ministries, Accra.	2nd RESPONDENT

PETITION

TO: HIS LORDSHIP HIGH COURT JUDGE, HO

THE PETITION OF PERSONS ABOVE NAMED IN TITTLE OF THE SUIT, showeth as follows:

1. 1st Petitioner is the parliamentary candidate of the National Democratic Congress (hereinafter referred to as the "NDC") for the Hohoe constituency in the Volta Region.
2. The 2nd Petitioner is a registered voter and native of Santrokofi traditional area.
3. The 3rd Petitioner is a registered voter and native of Akpafu traditional area.
4. The 4th Petitioner is a registered voter and native of the Likpe traditional area.
5. The 5th Petitioner is a registered voter and native of the Lolobi traditional area.
6. The 1st Respondent is the body mandated under the Constitution and the laws of Ghana to perform various functions in connection with public elections and referenda in Ghana, including the conduct and supervision of such elections and referenda.
7. The 2nd Respondent is one of the persons who filed his nomination as a candidate for Member of Parliament for the Hohoe constituency in the election held on December 7, 2020, being the candidate of the party currently in Government, the New Patriotic Party.
8. The Hohoe constituency is one of the 275 constituencies established by the 1st Respondent for the conduct of public elections in Ghana, and which constituency was specified by 1st Respondent in the Public Elections Regulations Constitutional Instrument Number 95 of 2016 (C.I. 95) – as such.
9. By CI 95, the Hohoe constituency, at all material times, has included the Santrokofi, Akpafu, Lolobi and Likpe traditional areas (hereinafter referred to as the "SALL area"), which area has over seventeen thousand (**17,000**) registered voters.
10. C.I. 95 has, at all material times, been in force and, to the extent that it includes the SALL area in the Hohoe Constituency, has neither been validly revoked, revised, repealed nor otherwise amended.
11. Accordingly, in respect of the Parliamentary elections that were held on 7th December 2020, 1st Respondent was required to conduct their functions with due regard for C.I. 95.

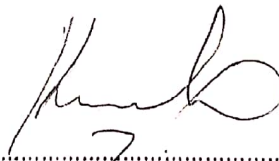
12. The denial of voters entitled to vote in the Hohoe constituency of their right to vote was not only to the detriment of the voters but also to 1st Petitioner's clear detriment as a candidate who had paid fees to the 1st Respondent for the opportunity to be voted for by the whole electorate in the Hohoe constituency.
13. 1st Petitioner had in fact been involved in the primaries of the NDC for election as the candidate for the NDC based on CI 95 and her election as the party candidate was presided over by officers of the 1st Respondent.
14. After being elected as candidate for her party, 1st Petitioner conducted her campaign to be a Member of Parliament for Hohoe Constituency throughout all the Electoral areas for the Constituency listed in CI 95.
15. By letters dated July 31, 2020 and November 4, 2020, the 1st Respondent was duly notified by the Hohoe Constituency Chairman of the NDC of the fact that registered voters in the SALL area were entitled to vote in the Parliamentary elections in the Hohoe constituency.
16. The said letters made reference to a decision of the Supreme Court dated 24th June 2020 in **Dzatse v. Henry Ametefe & ors**, a case in which 1st Petitioner was a Defendant. Affidavit accompanying the Petition has copies of the said letters attached and marked as Exhibits "**MK1 and MK1A**". (The decision of the Supreme Court is also therewith attached, marked as Exhibit "**MK 2**").
17. The 1st Respondent, at all material times, knew that, not having validly created a new constituency in which the registered voters in the SALL area could vote for a Member of Parliament, not allowing them to vote in the Hohoe constituency, meant that they would be unable to participate in the election of a Member of Parliament during the 2020 general elections and they would, therefore, have no representation in the next Parliament whose term begins from January 7th 2021.
18. Having failed to respond the letters mentioned in paragraph 15 and 16 above, the 1st Respondent, in the evening of December 6, 2020 (just a few hours to the 2020 general election), rather sprang a press statement on the public in which it stated that voters in the SALL area could vote **only** in the Presidential election but **not** in the Parliamentary elections.
19. The affidavit accompanying the Petition has a copy of the said notice attached and marked as **Exhibit MK3** which categorically excluded the participation of voters in the SALL area in Parliamentary elections.
20. By the decision of 1st Respondent to prevent and exclude registered voters in the SALL traditional areas, including the 2nd to 5th Petitioners, from voting for a Parliamentary candidate in the Hohoe constituency just a few hours to the commencement of the election in question, the 1st Respondent acted unreasonably and contrary to its constitutional responsibilities.
21. The said decision of the 1st Respondent, which was implemented in the conduct of the Parliamentary election on 7th December 2020 by officers of 1st Respondent,

was arbitrary, capricious and not in accordance with due process, an infringement of Article 296 of the Constitution.

22. The said decision of 1st Respondent, which was implemented in the conduct of the Parliamentary election on 7th December 2020 by officers of 1st Respondent, was also in bad faith and designed to be to the detriment of, the 1st Petitioner since, as is well known, 1st Petitioner has strong support from the SALL traditional areas.
23. The said decision of 1st Respondent, which was implemented in the conduct of the Parliamentary election on 7th December 2020 was designed to be to the benefit of 2nd Respondent who has his stronghold areas in other areas of the Constituency.
24. The said decision of 1st Respondent, which was implemented in the conduct of the Parliamentary election on 7th December 2020 actually did work to the detriment of 1st Petitioner and to the benefit of 2nd Respondent.
25. The said decision of 1st Respondent was in breach of the duty under Article 23 of the Constitution to be fair and reasonable in the conduct of their administrative responsibilities in respect of the conduct of public elections.
26. The above-described conduct of the 1st Respondent denied 2nd to 5th Petitioners as well as other registered voters in the SALL traditional areas their right to vote within an existing constituency established by C.I. 95 and their right to be represented in the 8th Parliament of Ghana.
27. The said decision of the 1st Respondent, denied 2nd to 5th Petitioners and other registered voters in the SALL traditional areas their right to equality before the law under Article 17 of the Constitution.
28. The 2nd to 5th Petitioners and other citizens of Ghana in the SALL area are not only denied an equal right to vote but also their right to representation in Parliament and, hence, their democratic participation in the nation only or mainly on account of their place of origin.
29. By preventing or otherwise excluding the 2nd to the 5th Applicants and other voters in the SALL area from voting for a parliamentary candidate of their choice in the Hohoe constituency while allowing other voters in the same constituency (other than the SALL area) to vote, the 1st and the 2nd Respondents discriminated against the 2nd to the 5th Applicants and other registered voters in the SALL area.
30. On or about December 8, 2020, after the close of polls and the collation of votes in the Hohoe Constituency, without the votes of the 2nd to the 5th Petitioners and others in the SALL area being cast and counted, an official of the 1st Respondent declared the 2nd Respondent as the Member of Parliament-elect for the Hohoe constituency.

31. The 1st Respondent has purported to publish a Gazette with the name of 2nd Respondent as the person elected to represent the Hohoe constituency. Attached to the affidavit accompanying this petition is a copy of the relevant pages of the purported Gazette notification marked as MK 4.
32. The purported declaration of 2nd Respondent as Member of Parliament -Elect for Hohoe Constituency and the purported Gazetting of his name as such are null and void on account of the exclusion of registered voters in the SALL area, including the 2nd to the 5th Petitioners, from voting in the parliamentary election in the constituency to which they currently belong.
33. The conduct of the Parliamentary election in Hohoe constituency in breach of the constitutional responsibilities of the 1st Respondent as set out above renders the whole election null and void.
34. Should the 2nd Respondent be sworn in as MP for Hohoe Constituency, this will be in disregard of the above-recited constitutional infringements by 1st Respondent in the conduct of the elections in the Hohoe constituency.
35. Accordingly, Petitioners seek the following reliefs:
- a) The setting aside of the election results declared by an officer of 1st Respondent on the night of 7th December 2020 and the subsequent notification by the 1st Respondent of the 2nd Respondent as MP-elect.
 - b) An order of injunction restraining the 2nd Respondent from holding himself out as MP-elect for Hohoe constituency.
 - c) An order directing 1st Respondent to conduct a Parliamentary election for the Hohoe constituency enabling all duly registered voters in the said constituency as established by CI 95 to vote for the Parliamentary candidate of their choice

DATED IN ACCRA THIS 6TH DAY OF JANUARY 2021.



.....
1ST PETITIONER FOR AND ON BEHALF OF 1ST TO 5TH PETITIONERS

**THE REGISTRAR
HIGH COURT
HO**

AND FOR SERVICE ON THE ABOVE-NAMED RESPONDENTS

FILED ON 06-01-2021
AT 03:00pm
REGISTRAR
COURT HO

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
HO – A. D. 2021

CASE NO.

PARLIAMENTARY ELECTION PETITION

**IN THE MATTER OF THE REPRESENTATION OF THE PEOPLE UNDER ARTICLE
99 OF THE 1992 CONSTITUTION AND THE REPRESENTATION OF THE
PEOPLE ACT 1992 (PNDCL 284)**

AND

**IN THE MATTER OF A PETITION BY PROFESSOR MARGARET KWEKU
CHALLENGING THE VALIDITY OF THE DECLARATION OF JOHN PETER
AMEWU AS THE WINNER OF THE PARLIAMENTARY ELECTIONS
CONDUCTED ON 7TH DECEMBER 2020 AT THE HOHOE CONSTITUENCY**

BETWEEN

- 1. PROFESSOR MARGARET KWEKU**
HSE./NO. AH-066
HOHOE-AHADO
- 2. SIMON ALAN OPOKU-MINTAH**
GCA 053
Obetsa- Santrokofi Benua
- 3. JOHN KWAME OBIOMPEH**
AOD-A 427, Odomi,
Akpafu.
- 4. GODFRIED KOKU KOFIE**
LBK 234, Aya Street,
Likpe Bakua.
- 5. FELIX QUARSHIE**
House No. LKU
-137 Lolobi Kumasi

PETITIONERS

AND

1. THE ELECTORAL COMMISSION
NATIONAL HEADQUARTERS
6TH AVENUE
RIDGE – ACCRA
2. JOHN PETER AMEWU
MINISTRY OF ENERGY
ACCRA

RESPONDENTS

NOTICE TO APPEAR

[SECTION 16 OF PNDCL OF 282 AND ORDER 2(2) OF CI 47]

TO:

1. THE ELECTORAL COMMISSION
NATIONAL HEADQUARTERS
6TH AVENUE
RIDGE – ACCRA
2. JOHN PETER AMEWU
MINISTRY OF ENERGY
ACCRA

PLEASE TAKE NOTICE that you are required after service hereof upon you, inclusive of the date of such service to enter appearance within EIGHT (8) DAYS inclusive of the day of service either in person or by your solicitor at the Registry of the High Court, Ho, in the Volta Accra Region of the Republic of Ghana, should you think fit to do so and thereafter to make answer to this Petition and that in default of your doing so, the Court will proceed to hear the Petition and pronounce judgment in your absence, notwithstanding.

The Petition is filed by PROF MARGARET KWEKU and this Notice is issued by **EMILE ATSU AGBAKPE** whose address for service is as follows:

**ZENITH LAW CONSULT
1ST FLOOR OLD MELCOM HOUSE
ADJACENT SOCIETE GENERALE GHANA LIMITED, HO**

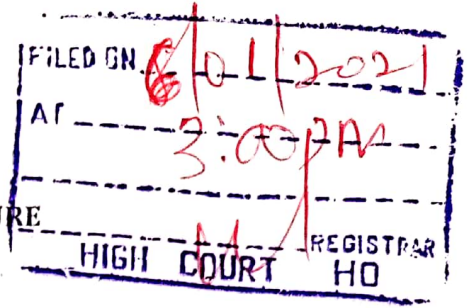
DATED AT ZENITH LAW CONSULT, HO THIS 6TH DAY OF JANUARY, 2021



THE REGISTRAR
HIGH COURT
HO

Note: Any person entering appearance should at the same time furnish an address for service within the jurisdiction of the court in which proceedings were commenced. The answer should be filed within **Fourteen (14)** days after the Petition is served on the Respondents.

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
HO - A.D. 2020



SUIT NO.:

IN THE MATTER OF ARTICLE 99(1) (a) OF THE 1992 CONSTITUTION AND SECTION
16 OF THE REPRESENTATION OF THE PEOPLES LAW, PNDCL 284

IN THE MATTER OF A PETITION CHALLENGING THE VALIDITY OF THE ELECTION
OF JOHN PETER AMEWU AS MEMBER OF PARLIAMENT-ELECT OF THE HOHOE
CONSTITUENCY OF THE REPUBLIC OF GHANA IN THE PARLIAMENTARY ELECTION
HELD ON 7TH DECEMBER 2020

BETWEEN

PROFESSOR MARGARET KWEKU

AH-066

Hohoe-Ahado.

1st PETITIONER

SIMON ALAN OPOKU-MINTAH

GCA 053

Obetsa- Santrokofi Benua

2nd PETITIONER

JOHN KWAME OBOMPEH

AOD-A 427, Odomi,

Akpafu.

3rd PETITIONER

GODFRIED KOKU KOFIE

LBK 234, Aya Street,

Likpe Bakua.

4th PETITIONER

FELIX QUARSHIE

House No. LKU

-137 Lolobi Kumasi

5TH PETITIONER

AND

THE ELECTORAL COMMISSION

William Tubman Road

Ridge, Accra.

1ST RESPONDENT

JOHN PETER AMEWU (HON.)

Ministry of Energy

Accra

Ministries, Accra.

2nd RESPONDENT

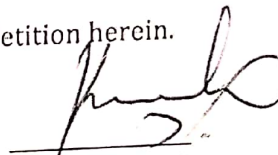
PETITION
AFFIDAVIT OF VERIFICATION

I, PROFESSOR MARGARET KWEKU, resident at AH-066, Hohoe-Ahado in the Volta Region of the Republic of Ghana, do hereby make oath and say as follows:

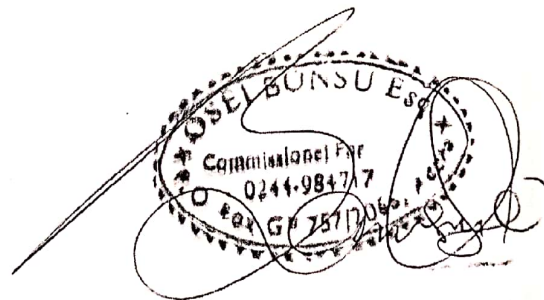
1. I am the deponent and 1st Petitioner herein and I have the authority of the 2nd to 5th Petitioners to depose to this affidavit on their joint behalves as well as on my own behalf.
2. I swear to this affidavit in verification of the Petition herein filed. Attached herewith are Exhibits MK1 to MK 4 referred to in the Petition.

WHEREFORE I swear to this affidavit in support of the Petition herein.

SWORN AT ACCRA
THIS 6TH DAY OF JANUARY 2021 }


DEPONENT

BEFORE ME



COMMISSIONER FOR OATHS

~~EXHIBIT~~ MK1

FILED ON 2020/07/31
AT
REGISTRAR HO



NATIONAL DEMOCRATIC CONGRESS

HOHOE CONSTITUENCY

BANKERS:
GCB BANK - HOHOE

31st July, 2020

FILED ON 06-01-2021
AT 03:00pm
[Signature]
HIGH COURT HO

THE CHAIRPERSON
ELECTORAL COMMISSION OF GHANA
ACCRA.

THIS IS EXHIBIT DOCUMENT
marked as such referred to in
the Affidavit sworn at Accra
this 24th day of June 2020.
Before me
OSEI KONSU BISA,
COMMISSIONER FOR POLITICAL
AFFAIRS

[Signature] MK1
2538
20

Dear Madam,

HOHOE CONSTITUENCY PARLIAMENTARY ELECTION ON 7th DEC. 2020

AND

IN THE MATTER OF JUDGEMENT OF THE SUPREME COURT REFERENCE NUMBER 16/01/20 IN THE CASE BETWEEN VALENTINE EDEM DZATSE VRS HENRY AMETEFE & 5 ORS DATED 24TH JUNE, 2020

- CHAIRMAN
0208279279
- SECRETARY
0249438199
- ORGANIZER
0244443363
- COMM. OFFICER
0203233736
- WOMEN ORGANIZER
0243029739
- YOUTH ORGANIZER
0242347422
- ZONGO CAUCUS CO ORDINATOR
0245200557

The Hohoe Constituency Executive Committee of the National Democratic Congress (NDC) attention has been drawn to the erudite decision of his Lordships at the Supreme Court in the case stated above and the content of the judgment well noted. At page 7 of the judgment where the consequential orders were made, not until 7th January, 2021 when the C.I. 95 shall be amended by the Electoral Commission or deemed to be amended, the electorates in the four (4) traditional areas of Santrokofi, Akpafu, Likpe and Lolobi are eligible to cast their vote for their parliamentary candidates on 7th December, 2020 for the Hohoe Constituency.

This is our understanding and appreciation of the judgment of the Supreme Court. We are aware that eligible voters in those traditional areas are being registered under Jasikan District of the Oti Region in accordance with C.I. 112 in the ongoing Voter's Registration exercise. However, until the C.I. 95 is amended any time after 7th January, 2021, the electorates in the Santrokofi, Akpafu, Likpe and Lolobi must vote for their preferred parliamentary candidate in the forthcoming parliamentary election on 7th December, 2020.

We hope that we are all cross-purpose with the content of the judgment and that there shall not be any contrary position to it.

Please be guided and act accordingly.

THIS IS THE DOCUMENT REFERRED TO

0545197909 HOHOE CONSTITUENCY NDC HOHOE CONSTITUENCY NDC
ncc@hohoeconstituency@gmail.com

SWORN BEFORE ME THIS
JAN 20 21
COMMISSIONER FOR POLITICAL AFFAIRS



NATIONAL DEMOCRATIC CONGRESS

HOHOE CONSTITUENCY

BANKERS:
GCB BANK - HOHOE

Attached is a copy of the judgment passed by his Lordships at the Supreme Court.

Thank you.

Yours sincerely,

George Bright Ajimi Bansah (Constituency Chairman)

- CHAIRMAN
0208279279
- SECRETARY
0249438799
- ORGANIZER
0244443363
- COMM.
OFFICER
0203233736
- WOMEN
ORGANIZER
0243029739
- YOUTH
ORGANIZER
0242347422
- ZONGO CAUCUS
COORDINATOR
0245200557

- Cc:
- Regional Electoral Officer, Ho
 - Municipal Electoral Officer, Hohoe
 - District Electoral Officer, Jasikan
 - National Chairman, NDC
 - Regional Chairman, NDC-Volta

~~EXHIBIT MK 1A~~



NATIONAL DEMOCRATIC CONGRESS

BANKERS:
GCB BANK HOHOE

HOOHOE CONSTITUENCY
FILED ON 23/07/2020
AT 08:50 AM
REGISTRAR HO

THIS IS THE DOCUMENT REFERRED
TO IN THE SUPREME COURT JUDGMENT
DATED 6TH JANUARY 2021
AND MARKED
EXHIBIT MK 1A
SWORN BEFORE ME THIS 23RD JULY 2020
DPC 2020
COMMISSIONER FOR OATHS

FILED ON 06-01-2021
AT 03:00 pm
HIGH COURT HO

THE CHAIRPERSON
ELECTORAL COMMISSION
ACCRA.

Dear Madam,
RE-HOOHOE CONSTITUENCY PARLIAMENTARY ELECTION ON 7TH DEC.

THIS IS EXHIBIT MK 1A
Marked in the Affidavit Sworn at Accra
this 23RD JULY 2020
OSET BONSU Jsg.
COMMISSIONER FOR OATHS

IN THE MATTER OF JUDGEMENT OF THE SUPREME COURT REFERENCE NUMBER 16/01/20 IN THE CASE BETWEEN VALENTINE EDEM DZATSE VRS HENRY AMETEFE & 5 ORS DATED 24TH JUNE, 2020

- CHAIRMAN
0208279279
- SECRETARY
0249438799
- ORGANIZER
0744443363
- COMM. OFFICER
0203233736
- WOMEN ORGANIZER
0243029739
- YOUTH ORGANIZER
0242347422
- ZONGO CAUCUS CO ORDINATOR
0245200557

With reference to our previous letter dated 13th July 2020, the Hohoe Constituency Executive Committee of the National Democratic Congress (NDC) hereby serves your august office this letter as a reminder on the subject matter.

This was arrived at after an erudite decision of his Lordships at the Supreme Court in the case stated above and the content of the judgment taken note of. At page 7 of the judgment where the consequential orders were made, not until midnight of 6th January, 2021 when the C.I. 95 shall be amended by the Electoral Commission or deemed to be amended, the electorates in the four (4) traditional areas of Santrokofi, Akpafu, Likpe and Lolobi are eligible to cast their votes for both presidential and parliamentary candidates on 7th December, 2020 for the Hohoe Constituency. We appreciate the judgment of the Supreme Court and we believe everyone else respects its orders and interpretations.

Kindly refer to the said letter and attached copies of the Judgment to guide your decisions even as we prepare for the general elections.

THIS IS THE DOCUMENT REFERRED
TO IN THE SUPREME COURT JUDGMENT
DATED 6TH JANUARY 2021
AND MARKED
EXHIBIT MK 1A
SWORN BEFORE ME THIS 23RD JULY 2020
DPC 2020
COMMISSIONER FOR OATHS

0572196909 | HOHOE CONSTITUENCY NDC | HOHOE CONSTITUENCY NDC
ndchohoeconstituency@gmail.com



NATIONAL DEMOCRATIC CONGRESS

HOHOE CONSTITUENCY

BANKERS:
CCB BANK - HOHOE

We hope that we are all cross-purpose with the content of the judgment and that there shall not be any contrary position to it.

Thank you.

Yours sincerely,

George Bright Anni Bansah
(Constituency Chairman)

CHAIRMAN
0208279279

SECRETARY
0249438799

ORGANIZER
0244443363

COMM.
OFFICER
0203233736

WOMEN
ORGANIZER
0243029739

YOUTH
ORGANIZER
0242347422

ZONGO CAUCUS
COORDINATOR
0245200557

Cc:

Regional Electoral Officer, Ho
Municipal Electoral Officer, Hohoe
District Electoral Officer, Jasikan
National Chairman, NDC
Regional Chairman, NDC-Volta

0549195909

HOHOE CONSTITUENCY NDC

ndchohoeconstituency@gmail.com



HOHOE CONSTITUENCY NDC



EX MK 2 Exhibit "MK2"

FILED ON 06-01-2020
AT 03:00 pm
HIGH COURT HO

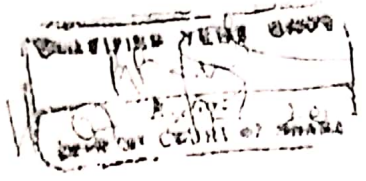
IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT
ACCRA-AD 2020

FILED IN
HIGH COURT HO

CORAM:

- BAFFOE-BONNIE, JSC (PRESIDING)
- PWAMANG, JSC
- MARFUL-SAU, JSC
- AMEGATCHER, JSC
- KOTEY, JSC
- OWUSU, JSC
- LOVELACE-JOHNSON, JSC

THE DOCUMENT REFERRED
IN THE OATH OF
AND MARKED EXH MK 2
SWORN BEFORE ME THIS 23RD OF
DEC 2020
COMMISSIONER FOR OATHS



REFERENCE
NO. J6/01/2020

24TH JUNE, 2020
PLAINTIFF

VALENTINE EDEM DZATSE

VRS

- 1. MR HENRY AMETEFE
- 2. THE CHAIRMAN, HOHOE CONSTITUENCY (NDC)
- 3. THE SECRETARY, HOHOE CONSTITUENCY (NDC)
- 4. PROFESSOR MARGARET KWEKU
- 5. THE REGIONAL ELECTORAL OFFICER (HO)
- 6. THE MUNICIPAL ELECTORAL OFFICER (HOHOE)

THIS IS EXHIBIT DOCUMENT
Marked EXH MK 2
in the Affidavit sworn at Accra
this 6th day of June 2020
Before me
OSEI BONSU Esq.
COMMISSIONER FOR OATHS

DEFENDANTS

JUDGMENT

PWAMANG, JSC:-

This case is a reference by the High Court, Ho of a question involving the enforcement and interpretation of the Constitution, 1992 that arose on the face of the processes filed in Suit No. E12/09/2020 pending in that court. We have examined the case stated in

1 | Page

THIS IS THE DOCUMENT REFERRED
IN THE OATH OF
AND MARKED EXH MK 2
SWORN BEFORE ME THIS 6TH OF
JUN 2020
COMMISSIONER FOR OATHS

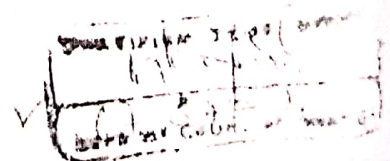
06 04298

the reference by the trial judge and considered the documents attached to it and are of the view that the appropriate question that has to be answered in this reference is whether or not C.I. 95 which is the subsisting legislation that delimits constituency boundaries in Ghana is inconsistent with Article 47(2) of the Constitution, 1992 by virtue of C.I. 112 which contains the boundaries of the newly created Oti Region, to the extent that C.I. 95 provides that the traditional areas of Santrokofi, Akpafu, Lipke and Lolobi all in the Oti Region are part of the Hohoe Constituency in the Volta Region of Ghana and therefore to the extent of that inconsistency is unconstitutional. We do not find the reference in the case stated to CI 119 which delimits District Assemblies and Electoral Areas boundaries relevant to a resolution of the real issue arising before the High Court, so we shall not consider it.

At the hearing of the case in this court the plaintiff submitted that the answer to the question posed above should be in the affirmative. His reason is that under Article 47(2) no constituency is allowed to straddle two regions but by the provisions of CI 95 made in 2016, the Hohoe Constituency falls partly within the Volta Region and partly within the Oti Region that was created by CI 112 made by the president pursuant to Article 5 of the Constitution in 2019.

The 1st to 4th defendants on the other hand submitted that as CI 95 was in existence and in force before C.I.112 was made by the president, the president in making C.I. 112 ought to have acted in conformity with it by ensuring that the traditional areas of Santrokofi, Akpafu, Lipke and Lolobi which at the time were part of the Hohoe Constituency remain part of the Hohoe Constituency, and the Volta Region for that matter, in order not to breach Article 47(2) of the Constitution. The effect of this argument is that Article 47(2) constitutes a limitation on the power of the president in the creation of new regions and it ought to take precedence over Article 5 of the Constitution.

The Electoral Commission on its part agreed in substance with the position taken by the plaintiffs and submitted that since CI 112 designates a regional boundary it ought to



take precedence over CI 95 which is on constituency boundaries. In the view of the Electoral Commission CI 95 ought to be amended to conform with the regional boundaries as set out in CI 112.

The relevant provisions of the constitution for the determination of the question before us are Articles 5 and 47 and the issue is which of the two articles ought to prevail over the other. If Article 5 prevails then it is CI 95 that is unconstitutional but if Article 47 prevails then it is CI 112 that is unconstitutional. In the celebrated case of **Republic V Special Tribunal, Ex parte Akosah [1980] GLR 592**, Anin JA identified this type of situation as one that calls for the Supreme Court to exercise its exclusive jurisdiction of enforcement or interpretation of the Constitution. He said as follows at page 604 of the Report;

"From the foregoing dicta, we would conclude that an issue of enforcement or interpretation of a provision of the Constitution under article 118 (1) (a) arises in any of the following eventualities:

(a) where the words of the provision are imprecise or unclear or ambiguous. Put in another way, it arises if one party invites the court to declare that the words of the article have a double-meaning or are obscure or else mean something different from or more than what they say;

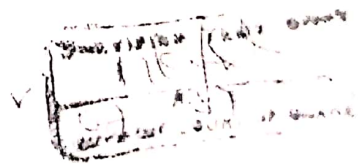
(b) where rival meanings have been placed by the litigants on the words of any provision of the Constitution;

(c) where there is a conflict in the meaning and effect of two or more articles of the Constitution, and the question is raised as to which provision shall prevail;" (emphasis supplied).

Article 5 of the Constitution provides in part as follows;

(1) Subject to the provisions of this article, the President may, by constitutional instrument -

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- (a) create a new region;
- (b) alter the boundaries of a region; or
- (c) provide for the merger of two or more regions.

(2) If the President, upon a petition being presented to him and, on the advice of the Council of State, is satisfied that there is substantial demand for -

- (a) the creation of a new region;
- (b) the alteration of the boundaries of a region, whether or not the alteration involves the creation of a new region; or
- (c) the merger of any two or more regions;

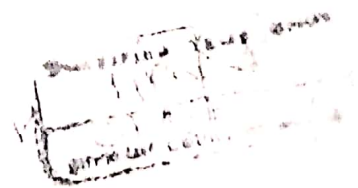
he shall, acting in accordance with the advice of the Council of State, appoint a commission of inquiry to inquire into the demand and to make recommendations on all the factors involved in the creation, alteration or merge.

(8) The President shall, under clause (1) of this article, and acting in accordance with the results of the referendum held under clauses (4) and (5) of this article, issue a constitutional instrument giving effect, or enabling effect to be given, to the results.

Article 47 is follows;

(1) Ghana shall be divided into as many constituencies for the purpose of election of members of parliament as the Electoral Commission may prescribe, and each constituency shall be represented by one member of Parliament.

(2) No constituency shall fall within more than one region.



(3) The boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota.

(4) For the purposes of clause (3) of this article, the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and area and boundaries of the regions and other administrative or traditional areas.

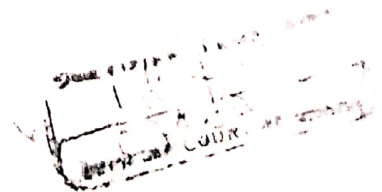
(5) The Electoral Commission shall review the division of Ghana into constituencies at intervals of not less than seven years, or within twelve months after the publication of the enumeration figures after the holding of a census of the population of Ghana, whichever is earlier, and may, as a result, alter the constituencies.

(6) Where the boundaries of a constituency established under this article are altered as a result of a review, the alteration shall come into effect upon the next dissolution of Parliament.

(7) For the purposes of this article, "population quota" means the number obtained by dividing the number of inhabitants of Ghana by the number of constituencies into which Ghana is divided under this article.

In the case of **Asare (No.2) v Attorney-General [2015-2016] 2 SCGLR 899** at p 925 Wood, CJ said as follows in respect of the interpretation of our Constitution;

"In construing the relevant article 289 and other constitutional provisions, in a bid to unlock the mind of the framers of the 1992 Constitution, I have been guided by the basic well-established constitutional principles that have influenced constitutional interpretation in this court. These include the need for a purposively broad, liberal and benevolent Interpretation of the Constitution as a whole, so far as the language of the constitution would admit, having due regard to the underlying values and principles that



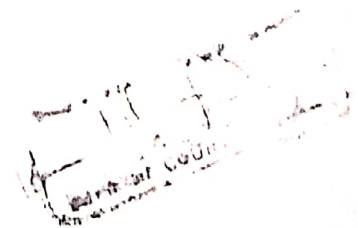
need to be promoted to safeguard our system of participatory democracy, the principle that the constitution is a document sui generis, and allied to this, the principle that the constitution must be interpreted in the light of its own words, and not words found in some other written constitution."

So, in order to determine which of these articles was intended by the framers of the Constitution to prevail over the other, we have to interpret the language used in the Constitution itself and only resort to other methods of interpretation if the language is found to be imprecise or leads to an absurdity. A close reading of Article 5 of the Constitution reveals that the power of the president to create new regions by constitutional instrument is subject only to Article 5 itself and is not subject to any other provision of the Constitution. When Article 5 is read as a whole there is no substantive limitation on the power to create new regions. The only conditions to the exercise of that power are procedural in terms of the president consulting the Council of State, setting up a commission to enquire into the demand or need for the new regions and the holding of a referendum to approve the proposed regions. There is no limitation on the number of regions or the population or number of traditional areas a region must contain or the boundaries that may be set for a new region. Consequently, the argument of the 1st to 4th defendants that the president in creating new regions is limited by Article 47(2) is not supported by the provisions of the Constitution.

Article 47 on the other hand in granting power to the Electoral Commission to divide Ghana into constituencies places some substantive restrictions on the exercise of that power. One of those substantive restrictions is in Clause 2 of the Article to the effect that a constituency shall not fall within more than one region. Another substantive restriction is that constituencies created shall in terms of population be nearly as possible to the population quota.

So when we compare and contrast the provisions of the two Articles, it becomes abundantly clear that Article 5 prevails over Article 47 as far as the relationship of regions to constituencies is concerned since the restriction under Article 47(2) is

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imposed on the Electoral Commission in the creation of constituencies but no such restriction is imposed on the president in creating regions under Article 5. We therefore hold that it is the Constitutional Instrument on constituency boundaries that should be aligned to the regional boundaries and not the other way round. It is our considered view that if the framers of the Constitution had intended it the otherwise they would have expressly made Article 5 subject to Article 47(2) of the Constitution. In the circumstances, we reject the argument of the 1st to 4th defendants. What this means is that whenever regional boundaries are changed in a manner that affects existing constituencies, the constituency boundaries have to be amended to align with the new regional boundaries.

For the reasons explained above, we hold that, as things stand now, CI 95 is inconsistent with Article 47(2) of the Constitution to the extent that the traditional areas of Santrokofi, Akpafu, Likpe and Lolobi which fall within the Oti Region are stated to be part of the Hohoe Constituency which is in the Volta Region and to the extent of that inconsistency CI 95 is unconstitutional. We therefore answer in the affirmative the rephrased question referred to us.

However, it is provided under clause 6 of Article 47 that any review of constituencies shall take effect upon the next dissolution of parliament. That is understandable because currently there are sitting Members of Parliament who were elected and are serving on the basis of the constituencies in CI 95. For that reason we shall not declare CI 95 as void despite our holding that it is unconstitutional. See; **Margaret Banful v Attorney-General Writ No. J1/7/2016, Judgment delivered on 22/6/2017.** Accordingly, we order the Electoral Commission to amend CI 95 to bring it in conformity with CI 112. Such amendment shall take effect upon the next dissolution of parliament, that is after midnight of 6th January, 2021.

G. PWAMANG
(JUSTICE OF THE SUPREME COURT)

P. BAFFOE-BONNIE
(JUSTICE OF THE SUPREME COURT)

S. K. MARFUL-SAU
(JUSTICE OF THE SUPREME COURT)

N. A. AMEGATCHER
(JUSTICE OF THE SUPREME COURT)

PROF. N. A. KOTEY
(JUSTICE OF THE SUPREME COURT)

M. OWUSU (MS)
(JUSTICE OF THE SUPREME COURT)

AVRIL LOVELACE- JOHNSON
(JUSTICE OF THE SUPREME COURT)

COUNSEL

C. K. KOKA FOR THE PLAINTIFF

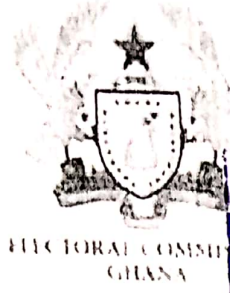
CHRIS A. ACKUMMEY FOR 1ST TO 4TH DEFENDANTS

JUSTIN AMENUVOR WITH HOPE AGBOADO FOR THE 5TH AND 6TH DEFENDANTS

[Handwritten signature and stamp]

~~EXHIBIT MK 2~~

THIS IS THE DOCUMENT REFERRED TO IN THE OATH OF... AND MARKED...



FILED ON 06-01-2021
AT 03:00pm
REGISTRAR
HIGH COURT HO

6th December, 2020

CONDUCT OF PRESIDENTIAL AND PARLIAMENTARY ELECTIONS IN THE BUEM CONSTITUENCY

The Commission wishes to announce for the information of the General Public, especially voters in the Buem Constituency that the 7th December 2020 Presidential and Parliamentary Elections will take place in the Buem Constituency as scheduled from 7:00am to 5:00pm.

However, as a result of the creation of the Guan District Local Government (Guan District Assembly) (Establishment) Instrument, 2020 and pending the creation of the Guan Constituency, eligible voters in the Guan District will vote only in the Presidential Election but not in the Parliamentary Election in the Buem Constituency.

Voters in the Guan District are to take note of this Directive from the Electoral Commission.

ELECTORAL COMMISSION

THIS IS EXHIBIT MK 2
Marked EXHIBIT MK 2 referred to in the Affidavit Sworn at Accra this 6th day of Dec 2020 before me
OSEI BONSU Bsq.
COMMISSIONER FOR OATHS

FILED ON 23-12-2020
AT 08:50am
REGISTRAR
HIGH COURT HO

THIS IS THE DOCUMENT REFERRED TO IN THE OATH OF... AND MARKED EXHIBIT MK 2 SWORN BEFORE ME THIS 6th DAY JAN 21

~~EX~~ - MK Exhibit "MK4"

GHANA



GAZETTE

Published by Authority

FILED ON 06-01-2021
AT 03:00pm
HIGH COURT HC
REGISTERED 2020

No. 195

TUESDAY, 22ND DECEMBER

CONTENTS

PARLIAMENTARY ELECTION RESULTS – 2020

Results of the 7th December, 2020 Parliamentary Elections 4086

THIS IS EXHIBIT DOCUMENT
Marked EX MK4
in the Affidavit Sworn at Accra
this 07th day of July 2021
Before me
Osei Bonsu Esq.
COMMISSIONER FOR OATHS

THIS IS THE DOCUMENT REFERRED
TO IN THE OATH OF
AND MARKED EX MK4
SWORN BEFORE ME THIS 07th DAY
OF JULY 2021
COMMISSIONER FOR OATHS

Electoral Commission of Ghana

Detailed Parliamentary Election Results

Date of Election: 7th December, 2020

Region: WESTERN

Constituency: JOMORO

Registered Voters: 74,276						
Name	Party	Sex	Age	Votes	Pcnt	Elected
PAUL ESSIEN	NPP	M	45	19,889	36.15%	<input type="checkbox"/>
DORCAS TOFFEY	NDC	F	48	24,356	44.27%	<input checked="" type="checkbox"/>
PATRICK EKYE KWESIE	CPP	M	30	235	0.43%	<input type="checkbox"/>
NKRUMAH SAMIA YABA CHRISTINA	IND	F	60	10,539	19.16%	<input type="checkbox"/>
Valid Votes: 55,019	Rejected Votes: 1,028	Total Votes Cast: 56,047		Turn-Out: 74.07%		

Region: WESTERN

Constituency: ELLEMBELE

Registered Voters: 70,684						
Name	Party	Sex	Age	Votes	Pcnt	Elected
KWASI BONZOH	NPP	M	42	23,869	41.60%	<input type="checkbox"/>
EMMANUEL ARMAH-KOFI BUAH	NDC	M	54	32,053	55.87%	<input checked="" type="checkbox"/>
AYELEBIE AMIHERE NANA MEZENWOLEBIAH	GUM	M	38	520	0.91%	<input type="checkbox"/>
MATHIAS BONZOH-EWEREKO BOATENG	CPP	M	42	881	1.54%	<input type="checkbox"/>
JOHN NKUM ASMAH	PPP	M	54	24	0.04%	<input type="checkbox"/>
PRINCE NATHANIEL KWOFIE	NDP	M	37	28	0.05%	<input type="checkbox"/>
Valid Votes: 57,375	Rejected Votes: 666	Total Votes Cast: 58,041		Turn-Out: 82.11%		

Region: WESTERN

Constituency: EVALUE AJOMORO GWIRA

Registered Voters: 51,696						
Name	Party	Sex	Age	Votes	Pcnt	Elected
CATHERINE ABELEMA AFEKU	NPP			17,287	45.09%	<input type="checkbox"/>
KOFI ARKO NOKOE	NDC			19,820	51.69%	<input checked="" type="checkbox"/>
ELISHA JOSHUA KABENLAH	GUM			1,145	2.99%	<input type="checkbox"/>
ASSUMAN FRANK AFFUL	NDP			90	0.23%	<input type="checkbox"/>
Valid Votes: 38,342	Rejected Votes: 662	Total Votes Cast: 39,004		Turn-Out: 75.45%		

Region: VOLTA

Constituency: HOHOE

Registered Voters: 59,674

Name	Party	Sex	Age	Votes	Pcnt	Elected
JOHN-PETER AMEWU	NPP	M	52	26,952	55.18%	<input checked="" type="checkbox"/>
PROFESSOR MARGARET KWEKU	NDC	F	57	21,821	44.67%	<input type="checkbox"/>
OYIE WILLIAM	CPP	M	37	40	0.08%	<input type="checkbox"/>
BALI EMMANUEL	NDP	M	25	33	0.07%	<input type="checkbox"/>

Valid Votes: 48,846

Rejected Votes: 389

Total Votes Cast: 49,235

Turn-Out: 82.51%

Region: VOLTA

Constituency: AFADJATO SOUTH

Registered Voters: 35,288

Name	Party	Sex	Age	Votes	Pcnt	Elected
FLOLU ETORNAM JAMES	NPP	M	30	7676	27.94%	<input type="checkbox"/>
ALORWU-TAY OFORIWA ANGELA	NDC	F	49	19,577	71.26%	<input checked="" type="checkbox"/>
BANKAS YAW KUMAH EDEM	NDP	M	38	218	0.79%	<input type="checkbox"/>

Valid Votes: 27,471

Rejected Votes: 277

Total Votes Cast: 27,748

Turn-Out: 78.63%

Region: UPPER EAST

Constituency: PUSIGA

Registered Voters: 46,269

Name	Party	Sex	Age	Votes	Pcnt	Elected
ABDUL-KARIM ZANNI DUBIURE	NPP	M	60	14,866	42.13%	<input type="checkbox"/>
LAADI AYII AYAMBA	NDC	F	58	14,929	42.31%	<input checked="" type="checkbox"/>
MOSES AZUMA MUSA	APC	M	58	283	0.80%	<input type="checkbox"/>
AGURI AKUGRI JOHN	PNC	M	60	138	0.39%	<input type="checkbox"/>
AKUNYE SIMON ATINGBAN	IND	M	67	5,069	14.37%	<input type="checkbox"/>

Valid Votes: 35,285

Rejected Votes: 1,698

Total Votes Cast: 36,983

Turn-Out: 74.34%

Region: UPPER EAST

Constituency: GARU

Registered Voters: 33,041

Name	Party	Sex	Age	Votes	Pcnt	Elected
MUSAH OSMAN	NPP	M	48	9,344	34.01%	<input type="checkbox"/>
ALALZUUGA ALBERT AKUKA	NDC	M	52	12,407	45.16%	<input checked="" type="checkbox"/>
DOMINIC AZIMBE AZUMAH	IND	M	70	5,720	20.82%	<input type="checkbox"/>

Valid Votes: 27,471

Rejected Votes: 860

Total Votes Cast: 28,331

Turn-Out: 72.40%

Region: UPPER EAST

Constituency: TEMPANE

Registered Voters: 48,980

Name	Party	Sex	Age	Votes	Pcnt	Elected
JOSEPH DINDIOK KPEMKA	NPP	M	47	16,462	44.01%	<input type="checkbox"/>
AKANVARIBA LYDIA LAMISI	NDC	F	47	20,939	55.99%	<input checked="" type="checkbox"/>

Valid Votes: 37,401

Rejected Votes: 978

Total Votes Cast: 38,379

Turn-Out: 76.36%

Region: UPPER EAST

Constituency: BINDURI

Registered Voters: 37,004

Name	Party	Sex	Age	Votes	Pcnt	Elected
ABANGA ABDULAI	NPP	M	50	15,016	49.11%	<input checked="" type="checkbox"/>
ROBERT BABA KUGANAB-LEM	NDC	M	53	14,562	47.62%	<input type="checkbox"/>
AYEEDA JOHN AYEBILLA	IND	M	45	999	3.27%	<input type="checkbox"/>

Valid Votes: 30,577

Rejected Votes: 912

Total Votes Cast: 31,489

Turn-Out: 74.80%



SAMUEL TETTEY
DEPUTY CHAIRMAN (OPERATIONS)