

IN THE HIGH COURT OF SIERRA LEONE

GENERAL AND CIVIL DIVISION

IN THE MATTER OF THE ELECTIONS FOR PARLIAMENTARY SEAT FOR  
CONSTITUENCY 112 IN THE WESTERN RURAL AREA OF FREETOWN IN  
THE REPUBLIC OF SIERRA HELD ON THE 7<sup>TH</sup> DAY OF MARCH 2018

BETWEEN

Victor S.O.B. Davies - Petitioner

NO. 3 Motor Road

Regent

Freetown

And

Amara Miatta Haja – 1<sup>st</sup> Respondent

Imatt

Freetown

National Electoral Commission - 2<sup>nd</sup> Respondent

Tower Hill

Freetown

National Returning Officer - 3<sup>rd</sup> Respondent

Tower Hill

Freetown

The Western Area Rural Returning Officer - 4<sup>th</sup> Respondent

C/O Electoral Commission, Western Area

Counsels for the Petitioner – I. Kanu, J. Campbell and C. Sawyer

Counsels for the 1<sup>st</sup> Respondent- A. Macauley, and B. Koroma

Counsel for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Respondents – D. E. Taylor

Before the Hon. Mohamed Alhaji Momoh- Jah Stevens J.

Judgment dated the 31<sup>st</sup> day of May 2019

The Petitioner, Victor S.O.B. Davies filed a Petition dated the 20<sup>th</sup> April 2018 against the 1<sup>st</sup> Respondent Hon. Amara Miatta Haja who was duly returned as the Member of Parliament elected for Constituency 112 Western Area, Freetown by the National Returning Officer, National Electoral Commission. The Petitioner alleged over voting in Ward 359 and Ward 396 in the said Constituency 112. On the 17<sup>th</sup> day of May 2018, the 1<sup>st</sup> Respondent filed an Answer wherein the 1<sup>st</sup> Respondent denied the said allegations and put the Petitioner to strict proof of same.

This Honourable Court gave direction that the trial of this Petition shall be by Affidavit.

The Petitioner herein filed Petition as directed by this Honourable Court in Support of the Petition dated the 20<sup>th</sup> September 2018. In same the Petitioner alleged over voting. Violence perpetrated on his property i.e. his vehicle by one Sanusie Bruski and his men, the Petitioner exhibited VSOBD 1 in support thereof. The Petitioner also exhibited Police Medical Request Form, marked as VSOBD2 as evidence of assault on his person, headed by Sanusie Bruski and his followers. In addition the Petitioner exhibited VSOBD 4, 5, 6 and 7 which are witness statements of Seray Tenema Kargbo, John Bockarir Kallon, Alista Success Bangura and Evemond Nicol respectively in support of the sworn Affidavit deposed by the Petitioner herein.




Lead Counsel for the 1<sup>st</sup> Respondent, A. Macauley Esq. submitted that they are opposed to the Affidavit filed by the Petitioner in support of the Petition herein and maintained that they relied on three Affidavits in defence of the 1<sup>st</sup> Respondent. First, the Affidavit in Opposition deposed to by the 1<sup>st</sup> Respondent dated 20<sup>th</sup> September 2018 in which the 1<sup>st</sup> Respondent stated that all the allegations of the Petitioner are untrue. Besides, the incident between the Petitioner and Sanusie Bruski has no nexus to her, as the said Sanusie Bruski was not a Polling Agent in her Constituency. Second, the Affidavit in Opposition deposed to by Bockarie Aballa Conteh of New Site Jui, Freetown, dated the 24<sup>th</sup> day of September 2018 and in same the Affiant supported the Affidavit of the 1<sup>st</sup> Respondent. Third, the Affidavit of Mohamed Bangura of N0.11 Mammah Lane, Gloucester Village, Freetown, dated the 20<sup>th</sup> day of September 2018, in which the said Affiant supported the Affidavit in Opposition deposed to by the 1<sup>st</sup> Respondent and at the same contradicting the Petitioner of any over voting in Constituency 112 as deposed in paragraph 3 thereof.

Counsel for the Petitioner submitted further in Court two legal authorities. First, the case of Morgan and Others v. Simpson and another (1974) 3 All ER 722, where it was established by the Court that an Election can be nullified because of irregularities substantially affect the result. Second, the case Gunn and others v. Sharpe and others where it was held by the Court that substantial error disfranchising voters significantly must be declared void.

Lead Counsel for the 1<sup>st</sup> Respondent, A Macauley Esq. submitted two cases and a synopsis of Argument. First, the case of Onoyom v. Egari (1999) 5 NWLR 417 where the Court established in Nigeria as a ratio decidendi in arriving at its decision, 'the onus is on the person who denies its correctness and authenticity to rebut the presumption'. Second, the case of Wulgo v. Bukar (1999) 3 NWLR 539, here again analogous principle of law was established by the Court, in that , an



allegation of electoral offences and malpractices placed the burden on the party alleging same to submit substantial proof. The third is synopsis of Argument in relation to the trial itself.

The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Respondent<sup>s</sup> did not file an Affidavit in reply, as such I will not pay heed to any legal submission made by ~~the~~ D.E.  Taylor Esq. representing them.

I am absolutely not satisfied in view of the evidence in the case of the Petitioner herein as the Petitioner has not in any way substantially or significantly proven that malpractices and over voting he alleged was sufficient enough to overturn the election result of the 1<sup>st</sup> Respondent. I agree with Counsel for the 1<sup>st</sup> Respondent in relation to the legal argument he canvassed for and on behalf of his client.

In the light of this development, I hereby entered judgment in favour of the 1<sup>st</sup> Respondent herein, Hon. Haja Miatta Amara of the All Peoples Congress, that she was duly returned by the National Returning Officer, National Electoral Commission as Member of Parliament for Constituency 112 Western Area in line Section 78(1) a of the Constitution of Sierra Leone Act. NO. 6 of 1991 and I make the following consequential orders:

- 1- That the Petition herein filed by the Petitioner is dismissed by this Honourable Court
- 2- That the said Honourable Haja Miatta Amara shall continue to represent Constituency 112 in the Sierra Leone House of Parliament
- 3- No order as to Costs

Stevens J. 

Dated -----

31-5-2019