

IN THE HIGH COURT OF SIERRA LEONE

GENERAL AND CIVIL DIVISION

IN THE MATTER OF THE ELECTIONS FOR PARLIAMENTARY SEAT FOR
CONSTITUENCY 131 IN THE WESTERN RURAL AREA OF FREETOWN IN
THE REPUBLIC OF SIERRA HELD ON THE 7TH DAY OF MARCH 2018

BETWEEN

Osman Jalloh - Petitioner

14 Johnson Street

Freetown

And

Mohamed Sheriff Rahman Coker – 1st Respondent

Herbert Street

Freetown

National Electoral Commission - 2nd Respondent

Tower Hill

Freetown

National Returning Officer - 3rd Respondent

Tower Hill

Freetown

The Western Area Rural Returning Officer - 4th Respondent

C/O Electoral Commission, Western Area

Counsel for the Petitioner – L. Dumbuya

Counsels for the 1st Respondent- I. Kanu, J.J Campbell, C. Sawyer, I.F. Sawaneh

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

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

Judgment dated the 31st day of May 2019

The Petitioner Osman Jalloh contested and was voted for at the 7th March 2018 General / Parliamentary as a Candidate of the All People's Congress. The Petitioner states that the election was held on the 7th March 2018 and where the said Osman Jalloh of the All Peoples Congress and Hon. Mohamed Sheriff Rahman Coker of the Sierra Leone People's Party and the Returning Officer, National Electoral Commission returned Mohamed Sheriff Rahman Coker as being duly elected as Member of Parliament for Constituency 131 Western Area Rural.

The Petitioner herein says in this Petition dated the 23rd day of April 2018 that he is a registered voter with voter nomination number 2732011. The Petitioner says further that the election was froth with violence and intimidation by Mohamed Sheriff Rahman Coker. The Petitioner again says that the electoral management put in place by the 2nd and 3rd Respondents for the conduct of the said election was complex and had many shortfalls depriving him i.e. of a free and fair election.

In the Particulars of the said Petition, the Petitioner aver that the 2nd and 3rd Respondent committed massive and systematic irregularities coupled with high level of intimidation, that the polling staff of the All People's congress were excluded by the 2nd and 3rd Respondents during the counting process and the 1st Respondent led violence and intimidation at the SOS Village Polling Station

The Petitioner herein prays as follows:

- 1- That it might be determined that Hon. Mohamed Sheriff Rahman Coker was not duly elected or returned
- 2- That the election of the 7th March 2018 be declared as null and void
- 3- An injunction restraining all statutory and other authorities and/or officials from endorsing and /or recognising the said Hon. Mohamed Sheriff Rahman Coker as a member of Parliament until the hearing and determination of this action

On the 11th day of June 2018, the 1st Respondent answered the said Petition and 1st Respondent denied all the allegations levied against him by the Petitioner and instead states that the elections were free, fair and transparent and he voted at the Aberdeen Community centre and went home after casting his vote.

On the 6th day of August 2018, by a ruling delivered by this Honourable Court it was held among other things that

- 1- The trial of this Petition shall be by way of Affidavit
- 2- That the Petitioner shall file and serve Affidavit supporting his case within seven days from the date of this order
- 3- That the Respondent shall file and serve an Affidavit in opposition with seven days upon receipt of the Petitioner's Affidavit.

Following the assignment of this file to me for trial, notices were served for hearing. This Petition came up for trial on the 3rd May 2019. Counsels for the 1st Respondent were present. The 1st Respondent was also present. Counsel for the Petitioner was absent. The Petitioner was also absent. I informed the Court that following the ruling of this Court dated the 6th August 2018 pursuant to Order 35 of the Election Petition Rules 2007, this trial shall be by way of Affidavit Evidence. The primary position of the law relating to Affidavit Evidence is that witnesses must be deposed to an Affidavit for determination by the Court.

Lead Counsel of the 1st Respondent, I Kanu Esq. told this Court that they were not served with any Affidavit and that the matter be thrown out of court

D. E. Taylor Esq. Counsel for the 2nd, 3rd, and 4th Respondents told the Court that they are relying on submission of law on this particular Petition.

In view of the prevailing legal circumstance and the failure of the Petitioner herein to file and serve Affidavit, Judgment is entered in favour of the 1st Respondent. I humbly submit this is the ratio decedendi.

I hereby make the following orders in addition thereto.

- 1- The Petition herein filed and dated the 23rd day of April 2018 is hereby dismissed
- 2- The 1st Respondent Hon. Mohamed Sheriff Rahman Coker of the Sierra Leone People's Party shall continue to be the Honourable Member of Parliament representing Constituency 131 Western Area Rural
- 3- No order as to Costs

Stevens J.

A handwritten signature in dark ink, appearing to be 'Stevens J.', with a long horizontal flourish extending to the right.

Dated the 31st day of May 2019