

Neutral Citation Number Misc. App. 1/21 C1

General and Civil Division
Case No: Cc 1/2021

IN THE HIGH COURT OF SIERRA LEONE
HOLDEN AT FREETOWN
GENERAL AND CIVIL DIVISION

Law Court Building
Siaka Stevens Street
Freetown

Date: 28 May 2021

Before:
THE HONOURABLE MR JUSTICE FISHER J

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Between:

Alfred Peter Conteh **Plaintiff/Applicant**
(Suing by his Attorney Rashid Santigie Sesay)

-and-

Dr Ernest Bai Koroma
Alhaji Osman Foday Yansaneh
All Peoples Congress
Political Parties Registration Commission **Defendants**

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JM Jengo of Counsel for the **Plaintiff/Applicant**

L Dumbuya, A Showers, A Koroma (Ms), Il Mansaray of counsel **for 1st Defendant**
AS Sesay, JB Sesay of counsel for **for 2nd Defendant**
A Macauley, W Serry-Kamal of counsel **for 3rd Defendant**

Hearing date: 10 May 2021

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APPROVED RULING

I direct that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MR JUSTICE FISHER J

The Honourable Mr Justice Fisher J:

1. In pending proceedings before me, the 1st, 2nd and 3rd defendants, hereinafter referred to as the defendants have filed notices of motion, seeking a number of reliefs. It is expedient at this stage to provide a summary of the relevant facts to this latest round of notices of motion.

Background to applications.

2. The Plaintiff by way of an ex parte notice of motion dated 26th February 2021, sought an interim injunction restraining the 1st, 2nd and 3rd defendants, hereinafter referred to as the defendants, from holding any conference, convention or meeting geared towards selecting or electing delegates or candidates into the party executive for the day to day running of the All Peoples Congress Party, APC. I granted the injunction on the 26th February 2021, and for ease of reference, I would now reproduce the relevant part of the said injunction, as follows:

“That the defendants are restrained whether by themselves, servants, agents, privies, workmen, officials, associates or howsoever called from holding any conference, convention, meeting, rally, or from taking part or organising any such conference, convention, meeting or rally geared towards nominating, proposing, selecting or electing any delegates and/or candidates into the party executive for the day to day running of the party, pending the hearing and determination of this application or further order of this court”.

3. Following the grant of the injunction, the defendants filed several motions objecting to the grant of the injunction on jurisdictional and other grounds. I ruled on those applications on the 10th March 2021. The defendants again filed other notices of motion raising a number of applications including an application for security for costs, which was granted on the 17th March 2021. Other notices of motion were again filed by the defendants, raising a number of issues including the lack of capacity of the plaintiff to institute

the action or in other words, the plaintiff lacked locus standi to institute the action.

4. With respect to the 3rd defendant, their notice of motion challenged the plaintiff's notice of motion on a number of legal grounds and counsel for the 3rd defendant in the alternative, sought a variation of the injunction on the basis that:
 1. The 3rd defendant wanted to and was desirous of adopting a new constitution as quickly as possible and that the election cycle had already kicked off, leaving the 3rd defendant at a disadvantage, in relation to other political parties.
 2. That the flagbearer of the 3rd defendant should be elected at least two years prior to the election and the injunction is preventing them from so electing one.
 3. That the 3rd defendant, undertakes that if the injunction were varied, they will only go to a convention to adopt the constitution and do nothing else.
 4. That National Advisory Committee, hereinafter referred to as NAC, has the powers to carry out the functions of the Executive of the party.
 5. That review of the constitution had been completed and copies have been distributed and copies would be given to the plaintiff.
5. JM Jengo for the plaintiff informed the court that the plaintiff has no issues with the variation sought, as long as the issues they have raised in their application, are dealt with.
6. I gave a ruling on the 19th April 2021, varying the injunction granted on 26th February 2021. I was very specific at paragraphs 54-66 as to the reasons why I considered it appropriate to vary the injunction I had granted, pending the hearing and determination of the substantive matter, following the submissions made by counsel for the 3rd defendant.

7. In particular, I was very clear that there were serious triable issues that needed to be tried, viz a viz the alleged illegal occupation of office by various office holders in the party, whom the plaintiff had identified as occupying their offices illegally, owing to the fact that, firstly they were never elected as required by the 1995 Constitution, and secondly, their respective mandates had expired, assuming they were properly elected and not selected, and it was necessary to grant an injunction, pending the hearing and determination of the substantive action.
8. Notwithstanding those conclusions on the continuation of the injunction, I considered it expedient to vary the injunction in the interest democracy, and most importantly having regard to section 35(2) of the 1991 Constitution, Act No 6 of 1991, which provides:

“the internal organisation of a political party to conform to democratic principles, and its aims, objectives, purposes and programmes shall not contravene, or be inconsistent with, any provisions of this Constitution.

9. At para 58 of that ruling I stated thus:

“Where a political party such as the 3rd defendant has indicated a willingness to abide by democratic principles in the review and adoption of a new constitution which it is suggested is more democratic, this court is duty bound to ensure that assistance is given to the 3rd defendant to ensure it maintains the spirit and tenets of section 35(2) of the 1991 Constitution, by doing all it can within the law, to facilitate the process of compliance with democratic tenets.

10. Having so concluded at para 58, I went on to exercise my discretion to vary the injunction in these terms at paragraph 59:

“In that regard, I am satisfied that this court should exercise its discretion to vary the injunction temporarily, in order to assist the 3rd defendant to adopt its new democratic constitution, pending the hearing and

determination of the substantive action on the legitimacy or otherwise of the organs challenged within the party”.

11. In varying the injunction, paragraph 61 and 62 of my earlier ruling are instructive as to the basis upon which the variation was granted, and I reproduce it below:

“para 61 I have fully considered the evidence submitted by all parties in this case and in view of the fact that this court is yet to make a determination on the substantive issues, I consider it expedient not to comment upon the specifics of the evidence at this stage. However, I need to consider how best to assist the 3rd defendant to adopt its constitution whilst maintaining the rule of law, in the light of the alleged illegalities raised by the plaintiff, in relation to the occupancy of the respective offices within the party, by executive members.

“para 62..... I have borne in mind the question of delegates to attend the National Delegates Conference and their eligibility. The 1995 constitution sets out the eligibility criteria of the delegates but a number of these delegates are subject to the allegations of illegality of the occupation of their offices. Their eligibility to attend a national delegates conference as delegates rests squarely on the legitimacy of the occupation of their respective offices. Delegates who go to the National delegates conference as delegates must be entitled to do so legitimately and must have no question marks hanging over their eligibility. A prospective delegate cannot expect to take part in a legitimate process to adopt a new constitution, of a party when the very basis of their own legitimacy to act as a delegate is being questioned.

12. The defendants have filed notices of motion, seeking leave to appeal and a stay of execution against the ruling of the 19th April 2021. I shall now deal with the respective notices of motion.

The 1st defendant's application.

13. By way of a notice of motion dated 5th May 2021, the 1st defendant prayed for a number of orders to wit:

1. An interim stay of execution of the orders in the ruling of this Honourable Court in the judgement dated 19th April 2021, pending the hearing and determination of this application;
2. That the court grants a stay of execution of the orders contained in the ruling dated 19th April 2021, pending the hearing and determination of the proposed interlocutory appeal to Court of Appeal;
3. That the court grants leave to appeal to the 1st defendant/Applicant to appeal the ruling dated 19th April 2021, to the Court of Appeal.

14. The application is supported by the affidavit of Adewale Showers, a Barrister and Solicitor, sworn to on the 5th day of May 2021.

The 2nd Defendant's application.

15. By way of a notice of motion dated the 4th day of May 2021, the 2nd defendant prayed for a number of orders to wit;

1. An interim stay of execution of specific orders appealed in the ruling dated 19th April 2021.
2. That the court grants a stay of execution of the specific orders appealed against, in the ruling dated 19th April 2021.
3. That the court grants leave to the 2nd Defendant to appeal its interlocutory ruling dated 19th April 2021, in the Court of Appeal. The application is supported by the affidavit of Alhaji Foday Osman Yansaneh, sworn to on the 4th May 2021.

The 3rd Defendant's application

16. By way of a notice of motion dated 4th May 2021, the 3rd defendant prayed for a number of orders, to wit:

1. An interim stay of execution of the orders in the ruling of this Honourable Court in the judgement dated 19th April 2021, pending the hearing and determination of this application;
2. That the court grants a stay of execution of the specific orders proposed to be appealed against, in the ruling dated 19th April 2021, pending the hearing and determination of the proposed appeal;
3. That the court grants leave to the 3rd Defendant to appeal portions of the ruling dated 19th April 2021, to the Court of Appeal;
4. That the court orders a speedy trial of the substantive application in this matter. The application is again supported by the affidavit of Alhaji Foday Osman Yansaneh, sworn to on the 4th May 2021.

17. In summary, all the defendants have a common application in seeking leave to appeal and in seeking both interim stays of execution and a stay of execution pending appeal. Some wish to appeal the specific orders, whilst others seek to appeal the entire ruling. I am therefore satisfied that the appeals raise common principles of law and I shall deal with the applications together. What is however clear is that the defendants seek the exercise of the courts discretion which can only be exercised judiciously.

The exercise of discretion.

18. The issue of discretion and its exercise was determined in *Rex v. Wilkes (1770, K. B.) 4 Burr. 2527, 2539* when Lord Mansfield referred to the exercise of discretion as follows:

“Discretion when applied to a court of justice, means sound discretion guided by law. It must be governed by rule not by humour; it must not be arbitrary, vague and fanciful, but legal and regular.

19. Judicial power is never exercised for the purpose of giving effect to the will of the judge, always for the purpose of giving effect to the will of the legislature; or, in other words, to the will of the law. Judicial discretion is one of the important powers of the judiciary where the judges can take decisions in some matter without following any fixed rule or established law. The concept of discretionary power is an instance which shows the independence of the judiciary. Judicial discretion is the power of the judiciary to make some legal decisions according to their discretion.

20. It is impossible to foresee all eventualities in judicial proceedings and for this purpose, the power of discretion is conferred upon the judge to decide a case justly according to the facts and circumstances. Consequently, judges are conferred with some discretionary powers to deliver justice to the parties. In many of the legislations, terms like ‘as the court deems proper’, ‘as the court otherwise directs’ which shows that the courts have some extraordinary discretionary powers. The judges can exercise these discretionary powers in cases before them.

21. An area where judges frequently exercise discretionary powers is in the grant of injunctions. The court exercises wide discretionary powers while issuing temporary injunctions. The relief of injunction cannot be claimed as a right before the court of law. It depends on the discretion of the court. The court has to decide to issue temporary injunctions in a judicious manner after considering the facts and circumstances of the cases. Injunctions can only be granted only if these three conditions are satisfied: prima facie case, the balance of satisfaction & irrecoverable loss. This has been the case in *American Cyanamid Co v Ethicon Ltd 1975 A.C.396*, where discretion is exercised in a number of key areas, which can be summarised as follows:

1. Whether the claimant has a strong arguable case;

2. whether there is a serious issue to be tried;
3. Where the balance of convenience lies;
4. The adequacy of damages as a remedy; and
5. Whether the status quo should be maintained.

22. In that case, Lord Diplock opined that: “The grant of an interlocutory injunction is a remedy that is both temporary and discretionary. It would be most exceptional for your lordships to give leave to appeal to this House in a case which turned upon where the balance of convenience lay.”. The learned judge went on to say: “*The court must weigh one need against another and determine where the balance of convenience lies*”.

23. In considering whether to grant leave to appeal, the case of *Hadmor Productions Ltd. v. Hamilton* [1983] 1 A.C. 191, 220, is relevant and Lord Diplock concluded that:

“The function of the appellate court is initially one of review only. It may set aside the judge’s exercise of his discretion on the ground that it was based upon a misunderstanding of the law or of the evidence before him...”

Exercise of discretion

24. In the exercise of its discretionary power, the court frequently invokes that discretionary power in granting injunctions. In the case of a temporary injunction, it is an extraordinary remedy, by which court orders the preservation of subject matter in dispute or for maintaining status quo. Injunctive relief cannot be claimed as a matter of right, but it depends upon the discretion of the court which varies according to the fact and circumstances of each case.

25. The courts exercise their power to issue injunctions judiciously, and only when necessity exists. Injunctive relief is not a remedy that is liberally granted, and, therefore, a court will always consider any hardship that the parties will sustain by the granting or refusal of an injunction. The court

that issues an injunction may, in exercise of its discretion, modify or dissolve it at a later date if the circumstances so warrant.

26. Consequently, a person who seeks an injunction must satisfy the court as to the existence of the following conditions:

1. First, there must be a prima facie case. The phrase 'prima facie' is used to designate legal evidence that is enough to establish a fact unless rejected. In other words, the prima facie existence of a right and its infringement are the condition for grant of a temporary injunction.
2. Second is the Balance of convenience- In applying the principle of balance of convenience, the court should weight the amount of substantial mischief that is likely to be done to the applicant if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted.
3. Third is irreparable loss- This term does not mean that there must be no physical possibility of repairing the injury but it means only that the injury must be material one that is which cannot be adequately compensated for in damages.

The Inherent jurisdiction of the High Court

27. This is a doctrine of the English common law that a superior court has the jurisdiction to hear any matter that comes before it, unless a statute or rule limits that authority or grants exclusive jurisdiction to some other court or tribunal. It also refers to the power of the High Court, to make orders and grant injunctions in particular circumstances. This facilitates the court in exercising full judicial power in all matters concerning the general administration of justice.

28. In *Bremer Vulkan Schiffbau und Maschinenfabrik v. South India Shipping Corporation Ltd*, Lord Diplock described the court's inherent jurisdiction as

a general power to control its own procedure so as to prevent its being used to achieve injustice. Inherent jurisdiction appears to apply to an almost limitless set of circumstances. There are four general categories for use of the court's inherent jurisdiction:

1. to ensure convenience and fairness in legal proceedings;
2. to prevent steps being taken that would render judicial proceedings inefficacious;
3. to prevent abuses of process;
4. to act in aid of superior courts and in aid or control of inferior courts and tribunals.

29. As such, the exercise of inherent jurisdiction is a broad doctrine allowing a court to control its own processes and to control the procedures before it. The power stems not from any particular statute or legislation, but rather from inherent powers invested in a court to control the proceedings brought before it.

30. These powers are reinforced by the section 134 of the 1991 Constitution which provides:

“134. The High Court of Justice shall have supervisory jurisdiction over all inferior and traditional Courts in Sierra Leone and any adjudicating authority, and in the exercise of its supervisory jurisdiction shall have power to issue such directions, writs and orders, including writs of habeas corpus, and orders of certiorari, mandamus and prohibition as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers”

31. With these principles in mind, I now turn to deal with the two key issues in this applications, which are the issues of a stay of proceedings and leave to appeal to the Court of Appeal. I will deal firstly with a stay of execution:

Stay of execution.

32. In *Hammond Suddards Edge v Agrichem International 2001 EWCA Civ 2065*, the court held that a stay of execution could only be warranted on the facts of the case after considering the risks inherent in granting it or refusing it. In the case of *Shang Dong Steel v Mustapha Joseph Kamara SC.CIV.5.2018*, a decision of the Supreme Court by which this court is bound, the Learned Chief Justice DB Edwards CJ, distilled the well settled principles of the court in dealing with stays of execution and the circumstances under which such stays are granted. He stressed that it is in the discretion of the court to grant or refuse a stay and that such a stay will only be granted where the applicant can convince the court that special circumstances exist.

33. He referred to Halsbury's laws of England 3rd Edition Vol 16 para 51 at page 35 as to the absolute and unfettered discretion of the court to grant or refuse a stay. He also referred to the dictum of Gelaga King JA in the Lucy Decker case. I shall now deal with the application proper.

34. In considering the issue of special circumstances and whether it would be just to grant a stay in this case, I have had to consider from the affidavit evidence before me whether such special circumstances exist and whether a case has been made out for such a stay. I shall start with the affidavit of the 1st defendant sworn to by A Showers Esq on the 5th day of May 2021. I have considered the entirety of the affidavit in particular para 12 in which he deposed to the fact that the officers injuncted, play a critical role in convening emergency delegates conferences and in the running of the 1st defendant's office as chairman and leader of the 3rd defendant.

35. For the avoidance of doubt and clarity, the injunction I granted does not deprive them of continuing with their critical roles in running the office of the 1st Defendant, neither does it prevent them from playing the same critical roles in convening the emergency delegates conference. It simply prevents them from taking part by voting at the said conference. The words of the order are clear that they are "***restrained from taking part as delegates in the emergency national delegates convention***".

36. Likewise, para 13 and 14 of the affidavit deposed to the fact that the orders of the court have created hardship for the 1st defendant. The details of the hardship have not been deposed to, in the light of the established facts. The same arguments go for the deposed para 16 of the affidavit. They are free to continue their day to day activities as party officials, pending the hearing and determination of the substantive matter. With respect to para 17, I do not accept that an exercise of judicial discretionary by a court restraining members whose status have been questioned in a court of law, as illegitimate, should lead to dissensions, in a democratic state. Every democratic states abides by and exists by the rule of law.
37. To suggest that adherence to the rule of law will lead to dissensions is rather unfortunate and those who make that claim should reflect deeply on the need for a democratic dispensation in our country. The point lost on the deponent of the affidavit is the fact that the legitimacy of members of NAC and others are being questioned. Para 17 appears to suggest that the legitimacy of NAC members ought not to be questioned and when questioned in a court of law, the court ought not to act, for fear that its decision may lead to dissensions. Such a state of affairs ought not to exist in a democracy, where the rule of law ought to be and remains supreme.
38. With respect to the 2nd defendant, I have again read the affidavit sworn to by the 2nd defendant, in its entirety, and have had specific regard to paragraphs 8, 9, 10 and 11. I have asked myself the question whether in a situation where the 2nd defendant is unable to carry out his role as the national secretary general for reasons other than the injunction for example ill health, does that mean that the operations of the 3rd defendant would grind to a halt? I have concluded that the answer is an emphatic and resounding no. The 2nd defendant is not prevented from carrying out his day to day duties as secretary general. He is only restrained from “taking part” in the national delegates conference as a delegate, pending the hearing and determination of the substantive matter, which would determine whether he is holding office as secretary general legitimately or illegitimately.

39. With respect to paragraphs 9, 10, and 11, the suggestion that the judgement is a final judgement is misconceived and unarguable. It is obvious that the ruling was an interlocutory ruling and if such a claim is made, then I am inclined to believe that the 2nd defendant is confused as to what his case really is. The application before me was to vary the injunction temporarily to allow the 3rd defendant to hold an emergency delegates conference for the sole purpose of adopting a new constitution, after which the parties would return to court for the determination of the substantive matter, regarding the illegitimacy or otherwise of those officers injuncted.
40. To suggest that there is the appearance of a final judgement in the wording of the order is plainly misconceived, mischievous and misleading. With regard to paragraph 11, I can think of no better way of upholding democratic principles than to injunct persons whose tenure in an elected office have been challenged on grounds of illegitimacy, pending the hearing determination of such legitimacy.
41. With respect to the 3rd defendant, I have again considered the entirety of the affidavit, again sworn to by the 2nd defendant. The language of the affidavit is intemperate and vexatious particularly in relation to para 11. I had considered striking out this affidavit pursuant to Order 31 rules 5 and 6 of the High Court Rules 2007, but upon reflection I decided to exercise my discretion to consider it nonetheless but with clear rebuke. The content of that paragraph confirms my earlier conclusion that the 2nd defendant appears confused as to what his case really is.
42. A court is not bound to uphold a prayer simply because it is prayed for. The 2nd defendant supported a prayer for a variation of the injunction to allow for the 3rd defendant to hold a national delegates conference, by swearing to an affidavit. Yet in the same breath, he now criticises the court in an affidavit for “refusing” to uphold the prayer to strike out the plaintiff’s claim, but seeks to benefit from an order varying the injunction. The 2nd defendant must understand that no arguable basis was made for striking out the Plaintiff’s claim with regard to the alleged illegalities raised by the plaintiff and most importantly, he supported the claim for variation of the

injunction and it seems rather odd that he now is troubled by the said variation. This has all the hallmarks of confusion as to the nature and legal basis of the plaintiff's claim.

43. I have also had regard to paragraph 16 of the said affidavit which again appears to support my earlier conclusions of confusion. The elections or the womens' league and youth league that were ordered, are elections that ought to have been conducted by him as secretary general of the 3rd defendant and the 3rd defendant itself at the delegates convention that was held in 2017. This requirement is in accordance with the party's constitution of 1995. These 45 delegates that were never elected are delegates that are part of the national delegates conference and have a right to be there. These elections were never conducted and have still not been conducted. Most importantly, as I have pointed out for whom elections ought to have been conducted are delegates who have a right to attend a national delegates conference as delegates. It is inconceivable that the 2nd defendant having failed to conduct such elections as required by the party's 1995 constitution, over which he superintends as secretary general, can sensibly argue that those elections ought not to be held prior to a delegates conference. This is a clear requirement in the 1995 constitution.

44. It is rather astonishing that the 2nd defendant has an issue with holding such elections when they are mandated by the party's 1995 Constitution. I find it difficult to understand how the 2nd defendant could depose to an affidavit stating that the people whose legitimacy as delegates have been questioned, should have a right to go to a delegates conference as delegates, when their very status as delegates have been challenged and the court is yet to finally determine the issue. Such a state of affairs would make a mockery of the democratic process.

45. It is expedient at this point to deal with the issue of the alleged disenfranchisement. The words disenfranchisement refers to the deprivation of a right or privilege. One can only be disenfranchised when they have a right or privilege. The 1995 party constitution provides in clear terms that the status of delegates is conferred on members who have been elected and

not selected into office for a specific period of time. Where a party official has not been elected into office and even where selected the period of time for which he was selected has elapsed, he cannot be heard to complain that he has been disenfranchised. In simple terms, the fact that he was not elected means he cannot assert a right he does not have. His very selection has disenfranchised others who have been deprived of the right (which they have) to subject themselves for elections. With regard to para 18 of the affidavit in which it is deposed that the ruling has caused more problems for the 3rd defendant, the problems caused have not been deposed to. Any potential problem caused if any, is simply on account of the fact that the defendants are failing to abide by their own Constitution which governs them. In any event, I consider the suggestion of additional problems as a result of the court orders, as fanciful.

46. The key issue lost by the defendants in this action is the plaintiff's case. He takes issue with the fact that these national officers are unelected officials and they have no legitimate basis to occupy the offices they hold in addition to the status as delegates conferred upon them. Their status as delegates is only attained through the elections in which they are elected, as provided for by the 1995 constitution. In a situation where they are not elected, they allegedly remain unelected officials in breach of the 1995 Constitution and consequently the status as delegates ought not to be conferred upon them. In other words, they have no right to perform the duties of delegates at a delegates conference.
47. Secondly even if they were elected, the period of time for which they ought to have been elected to serve as officials is now elapsed and they cannot now continue in office, even if they were elected. In this case, the plaintiff argues that the fact that they were never elected but selected, deprives them of the status as delegates and arguably they cannot or ought not to take part in a national delegates conference. This is the plaintiff's pleaded case.
48. The defendants are reminded that the court granted an injunction on the basis of the plaintiffs pleaded case, but was varied to a limited extent to

allow the 3rd defendant to adopt its new constitution and in the exercise of the courts inherent jurisdiction, the issue of unresolved membership issues needed to be considered to ensure that there would not be further litigation by members who feel disenfranchised as a result of irregularity of their membership. It was a discretion exercised to prevent future litigation and to ensure that the adoption of the constitution will have consensus of the party membership. The injunction otherwise remains in force save for the two issues for which leave was granted.

49. It was the 3rd defendant supported by the 1st and 2nd defendants, who requested a variation, which has now been granted. The basis of the variation application was on the grounds of speed. Mr Macauley for the 3rd defendant had lamented and quite rightly so that the 3rd defendant was now at a disadvantage in relation to other parties as the election cycle had kicked in and time and speed was of the essence and consequently they needed to hold an emergency national delegates conference. It now appears that the exceptional urgency canvassed by Mr Macauley has now disappeared as a result of the 2nd defendant and others being restrained from taking part in the delegates conference, as delegates, when the legitimacy of their status as party officials and delegates have been questioned in this court.

50. It is rather disingenuous for the 3rd defendant to now come to this court to seek a stay of execution of the very order for a variation which they passionately canvassed the court to make available to them, and to seek leave to appeal instead of proceeding to hold the emergency national delegates conference. Such a course of conduct, if granted, would add significant delays to the process and would be contrary to Mr Macauley's arguments that time and speed were of the essence. It was further argued by Mr Macauley that the 3rd defendant wanted a democratic constitution as quickly as possible. That desire has now suddenly appeared to change because of the restraint on the 2nd defendant and others.

51. With respect to the grounds of appeal, for the reasons I have given, such an appeal as proposed by the defendants, I have concluded has no merits and

the prospects of such an appeal are fanciful. With respect to the grounds of appeal of the 2nd defendant, I have concluded the prospect of a successful appeal are equally fanciful. The key argument of the 2nd defendant on the locus standi issue is the reliance on the Hinga Norman decision. I have concluded that that reliance does not provide an arguable point of law, fit for leave to be granted to the court of appeal, on a point of law. The Hinga Norman decision mentioned, a decision of the Supreme Court had regard to the case of *Yambasu and Ors v Ernest Bai Koroma & Ors (S.C.3/2002*, a judgement delivered on 22nd day of June 2004, by which the Court of Appeal is itself bound.

52. This was another judgement of the Supreme Court in which the court took the view that Mr Yambasu, as a member of the APC had locus standi to bring a claim against Ernest Bai Koroma and Ors who were also members of the APC. There is no error of law disclosed where the court chooses to have regard and to follow the decision of Yambasu and Others which has not been overruled by the court.

53. In the light of the above matters which I have considered in the round, I make the following order:

1. The 1st defendant's application for a stay of execution of the ruling of the 19th April 2021, and my orders, is refused.
2. The 2nd defendant's application for a stay of execution of the ruling of the 19th April 2021, and my orders, is refused.
3. The 3rd defendant's application for a stay of execution of the ruling of the 19th April 2021, and my orders, is refused.
4. The application for leave to appeal to the Court of Appeal by the 1st defendant of the ruling dated 19th April 2021, is refused.
5. The application for leave to appeal to the Court of Appeal by the 2nd defendant of the ruling dated 19th April 2021, is refused.

6. The application for leave to appeal to the Court of Appeal by the 3rd defendant of the ruling dated 19th April 2021, is refused.
7. The costs of the application, summarily assessed at thirty million Leones (Le30,000,000.00) shall be borne by the defendants and paid to the plaintiff, forthwith, as follows:
 1. The 1st defendant shall pay the costs of this application to the plaintiff, in the sum of ten million Leones.
 2. The 2nd defendant shall pay the costs of this application to the plaintiff, in the sum of ten million Leones.
 3. The 3rd defendant shall pay the costs of this application to the plaintiff, in the sum of ten million Leones.

The Hon Justice A Fisher J