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SUPREME COURT OF GHANA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA – A.D. 2020

WRIT NO. J1/5/2021

ARTICLE 64 OF THE 1992 CONSTITUTION AND SUPREME COURT RULES, 1996
(C.I. 16) (AS AMENDED BY C.I. 74 AND C.1. 99)

AMENDED PRESIDENTIAL ELECTION PETITION
PURSUANT TO LEAVE GRANTED BY THIS COURT ON 14TH JANUARY 2021
PRESIDENTIAL ELECTION HELD ON 7TH DECEMBER 2020.

JOHN DRAMANI MAHAMA
No. 33 Chain Homes
Airport Valley Drive
Accra

PETITIONER

AND

1. ELECTORAL COMMISSION
National Headquarters
6th Avenue
Ridge – Accra

1ST RESPONDENT

2. NANA ADDO DANKWA AKUFO-ADDU
House No. 02 Onyaa Crescent
Nima - Accra

2ND RESPONDENT

WITNESS STATEMENT OF ROBERT JOSEPH METTLE-NUNOO

1. Mr name is Robert Joseph Mettle-Nunoo. I reside at 43 Millenium Court, Devtraco Court, Community 25 Tema. I provide this witness testimony in support of Petitioner's case.
2. I was one of the two representatives of Petitioner alongside Dr. Micheal Kpessa Whyte, in the 7th December 2020 Elections at the collation center ("strong room") of 1st Respondent's Headquarters.
3. My role as one of two agents of the Petitioner -the other being Dr Michael Kpessa -Whyte, in the 7th December 2020 Elections, was to review and, once satisfied, certify the Presidential election results at

the headquarters of the Electoral Commission. This role is defined in the regulations for the conduct of the elections -CI 127.

4. It is my understanding also that the specific role of the Chairperson of the EC as the sole Returning Officer is provided for in the Constitution and in the same Regulations. Prior to her so-called declaration on 9th December 2020, the Chairperson of the Electoral Commission did not perform the duties she was supposed to perform in order to be able to declare a winner of the election as she attempted to do. In the entire period after the election on 7th December 2020 she made a couple of very brief visits to the strong room.
5. The EC had a video documentary person recording events in the strong room and I have no doubt that, if that documentary is available in its authentic version, it will confirm what I am saying in this witness statement about things that occurred in the strong room.
6. Dedicated fax machines, printers and computers were provided for the strong room that were to receive faxes from fax machines at the regional collation centres in full view of agents of candidates and, then, projected on an overhead projector in the strong room, as the results were received. EC Officials manned the fax machines. On 9th December 2021, for many hours, the fax machines in the strong room were not working. One could see the frustration on the faces of many of the dedicated fax machine EC personnel. The fax transmission was also slow.
7. Instead of that pre-arranged transmission system for the regional collation sheets to be transmitted to the head office of the Electoral Commission, what happened part of the time was that one of the Deputy Director of the EC, Dr. Sereboe Quaicoe, would, from time to time, bring into the strong room what was claimed to be a regional collation sheet. How he got that sheet was not disclosed.
8. My colleague, Dr. Kpessa-Whyte, and I, on many occasions, pointed out errors in figures and words on the sheets that were brought in which ultimately affected totals and assigned results. This sometimes led to EC officials making phone calls on the basis of which they sought to explain and correct some of the things we pointed out. I cannot tell to whom those phone calls were made. I cannot tell if the calls were to EC officials or to some other people who were also

involved in collation processes. There was no transparent process in this regard.

9. Thus, for instance, when we pointed out problems on the Eastern Region regional collation sheet, another one was subsequently brought in and claimed to be a corrected version. Obviously, that “corrected” version could not have been what was produced at the regional collation centre at the time the collation was done and was, therefore, not an authentic document. The only way to establish the authenticity of that document was for the original to be made available and a transparent process undertaken in the presence of agents of the candidates for any corrections to be effected.
10. Some of the time, when the officials of the EC said they were “correcting” errors, their officials had already signed the regional summary sheets and, yet, they accepted that corrections were needed. At other times, when we queried certain collation results from the regional levels, they were quick to say, “Once your representatives have signed the only relief available to you is to go to court.”
11. I must admit I was misled by this position of the EC officials into signing the regional collation sheet for the Ashanti Region simply because there was a signature of the agent of the Petitioner at the regional collation centre on that sheet. I later found out from speaking with officials at the party headquarters that what had been presented on the signed collation form was not consistent with a tally of polling station results in the Ashanti region.
12. It is my express understanding that the entire election processes require very importantly a transparent assembling and collation of results so that no single vote of those who cast valid votes is left out of account and not one invalid vote is included in the votes taken into account. It is also my understanding that nothing other than votes cast validly at one of the accredited 38,622 polling stations should be factored into the collation at the 275 constituency collation centres through to the 16 regional centres and on to the EC strong room. At each stage, evidently, corrections could be made in accordance with due process.
13. At the point when I first went to the office of the Chairperson of the Electoral Commission on 8th December 2020, I wanted to bring it to

her attention that what was going on in the strong room could not lead to a declaration by her of the results at the end of the day, as she had promised the country. She actually told me, in response, that the concerns I had raised were genuine and she would have them looked into.

14. Even by the 9th December 2020, there was obviously no regional collation undertaken for Bono East and no regional collation form (Form 11) was brought into the strong room by the time that my colleague, Dr. Kpessa-Whyte, and I left the premises of the Electoral Commission. We also knew that there were other outstanding regional summary sheets that had not been discussed much less presented to be certified by agents of the candidates.
15. In respect of the Eastern Region two separate summary sheets were sent to the EC Strong room. Both could not be authentic. Only by getting the originals of these documents can there be clarity on exactly which is the genuine form from the region.
16. In respect of Greater Accra Region, we observed that the total votes given to the Petitioner, which is meant to be based on the sum of all constituency votes, on the face of the regional summary sheets presented, was less than his actual total. We also observed that the regional summary sheet published by the EC while the process was ongoing had different figures compared to the one given to us in the National Collation Centre
17. There is a difference of 1,707 votes between the regional summary sheet presented to us in the strong room and the one published on the EC's website and there has been no explanation for this. That was one of the things in respect of which we asked the party headquarters to have the Election Directorate go back to the polling station level data to ascertain what the correct figures were. We were waiting to get feedback on that, among other things, when we heard the declaration of results by the Chairperson of the Electoral Commission.
18. In respect of the Northern Region, we observed two regional results summary sheets were brought into the National Collation Centre strongroom, one was without signatures of the agents for the candidates and the second had no signature of the NDC agent for the region, but had signatures for NPP, GUM, CPP and PPP. Only by

getting the originals of these documents can there be clarity on exactly which is the genuine form from the region.

19. On the Western North summary sheet the regional representative for the Petitioner did not sign and gave the reason for not signing. This was duly noted by the strong room representatives. I made a mistake when I signed the summary sheet in the EC strong room. At the time I signed, I missed the fact that the agent at the regional collation centre had stated clearly the reason for not signing. We made the EC officials aware that the agent at the regional collation centre had not signed and had given a reason for not signing.
20. I would have pointed out my mistake to the Chairperson of the EC if she had come for the process of assembling and collating results as she was required to do. In the event, she never came. In any case, officials of the EC, being aware of the reason given on the form by the agent of the Petitioner for not signing, could not just disregard it and claim that, once I had signed the summary sheet, the matter was closed.
21. I must also say that the fact that I signed sheets in respect of a number of regions shows clearly that my colleague and I were not there to put spokes in the wheel of the process of getting the proper basis for a constitutionally appropriate declaration of the results of the Presidential election to be made.
22. It was in the light on the experiences of different regional certification processes and the posture of the EC officials in the strong room on 9th December 2020 that, on behalf of my colleague and myself, I sought to consult with the Chairperson of the EC, the Returning Officer herself. I also needed to receive feedback on the concerns I conveyed to her the previous day, particularly as I had learnt from officials at the NDC Headquarters before I got to the EC headquarters on 9th December 2020, that there was likely to be a stakeholder meeting of key players in the Presidential elections, with participation of local and international observers, media and civil society groups and the EC to address concerns that the NDC had raised about the conduct of the election.
23. Mrs. Jean Mensa informed me that there had been a meeting held earlier in the day between the Petitioner and the Peace Council,

something I was unaware of at the time. After I further drew her attention to some of the issues that were coming up in the interactions in the strong room, she said very directly that we should go and speak with the Petitioner. Having regard to her earlier reference to the meeting between the Peace Council and the Petitioner, which she had obviously been briefed about, I took seriously what she said. I did not think that we, who were acting as agents of the Petitioner, should be seen as taking positions which may be contrary to what the Petitioner himself had conveyed in a meeting that I was unaware of with a body such as the Peace Council which, I know, has an important role in resolving disputes in connection with elections and calming tensions in the country. She indicated her own willingness to meet with the Petitioner.

24. I was also struck by the fact that she proposed that she would send a dispatch rider to help us get back to the headquarters of the EC ahead on time for her own exercise of her responsibilities. There was nothing in the discussions which could have given me any reason for doubting the word of the Chairperson of the EC. Indeed, having worked with her previously when I was a consultant to the IEA, I had no reason not to trust her. I took her at her word and I must say I was really shocked to realize how she had proceeded to make a declaration of results at a time when she knew that my colleague and I had left the premises at her instance. I can still remember her saying that she would even send a dispatch rider to hasten our return to the EC headquarters after our consultations with the Petitioner.
25. I returned to the strong room after my meeting with the Chairperson of the EC and made it known to those present, including to the observers and other presidential candidate representatives and the EC Strongroom Coordinator, that we had been sent to convey a message to the NDC Presidential Candidate. My colleague and I only left the premises of the Electoral Commission at the instance of the Chairperson of the Electoral Commission, to go and meet with the Petitioner. We had absolutely no other reason to leave. We left our belongings, including computers and bags in the strong room at the time we left. My colleague left his vehicle at the premises of the EC.
26. All this would not make sense if we did not intend to come back to the strong room. Indeed, Mr. MacManu, who is representing the 2nd Respondent in this case, acknowledged, in a television interview on MetroTV, that he knew we were coming back and said so to a

colleague of ours who came to the strong room, after we had left. Our colleague came specifically to give me a change of shirts I had requested for since we had been in the strong room from the evening of 7th December 2020. I attach herewith a recording of that interview, marked "MACMANU."

27. In any event, by the time we left the EC premises, the Strong room verification process with the Chairperson of the EC had not even begun much less come to an end. All that had happened in the strong room was a series of informal interactions and not the process with the Returning Officer that is set out in the Constitutional Instrument 127.
28. Indeed, during most of that time, more than two agents of the candidate for the New Patriotic Party, Nana Addo-Dankwa Akuffo-Addo, were present, while every other candidate had not more than two agents. Mr. MacManu and Mr. Evans Nimako joined the two agents for the New Patriotic Party for much of the time in the strong room. Mr. John Boadu also came in for part of the time to join them. I remember my colleague and I protested at the presence of Mr. MacManu when he came in. He, however, remained there and we did not pursue our protest because, as at the time we were leaving the premises of the EC at the instance of the EC Chairperson, we realized the process of the Returning Officer assembling and collating votes had actually not started.
29. Yet my colleague and I realized with shock, on our reaching the residence of the Petitioner, that the EC Chairperson was in the process of announcing results. Petitioner naturally asked how this was possible when the same person had sent us with a message for him.
30. Attempts I made to reach the Chairperson of the EC by telephone for clarification proved futile as she had turned off her phones. Clearly, the EC Chairperson had not been transparent and truthful and had taken advantage of the absence of the two representatives of the Petitioner to make a premature and unconstitutional declaration. She acted with extreme bad faith, unfairly, unreasonably and with no regard for due process.
31. I can still not believe she did what she did in the light of my experience over the years with elections in this country. Since 1992 I have personally represented the NDC and its respective flag bearers in the

strong room for various presidential elections. I have always played my part honestly and in a principled manner in election processes in the country regardless of my own preferences and been part of election outcomes in which my candidate won and where my candidate lost.

32. I have known that a declaration has to be transparent and the result must be justified by facts, figures and a transparent tally and collation of results. Clear errors, as have been admitted by the EC in these elections, undermine the credibility of the poll and also cast grave doubt on the integrity of those assigned responsibilities for the free, fair and transparent conduct of elections. It is impossible to sweep these matters under the carpet.



WITNESS

STATEMENT OF TRUTH

I, **ROBERT JOSEPH METTLE-NUNOO**, say that I am the Witness herein and that I made this statement in respect of this Presidential Election Petition, and that to the best of my knowledge and honest belief, paragraphs 1-16 of the Witness Statement is true to the best of my knowledge, information or belief.

DATED THIS 4TH DAY OF FEBRUARY 2021.

**THE REGISTRAR
SUPREME COURT
ACCRA.**

AND COPY EACH FOR SERVICE ON THE ABOVE-NAMED 1ST AND 2ND RESPONDENTS OR THEIR SOLICITORS:

1. JUSTIN AMENUVOR, AMENUVOR & ASSOCIATES, NO. 8 NII ODARTEY OSRO STREET, KUKU HILL (FRONTLINE CAPITAL ADVISORS BUILDING), OSU, ACCRA
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