

MIS. 1/2014

2014

IN THE SUPREME COURT OF SIERRA LEONE
IN THE MATTER OF A RULING IN THE CASE – THE STATE V. DR.
MAGNUS KEN GBORIE, DR. EDWARD MAGBITY & LANSANA S.M.
ROBERTS, DELIVERED ON 10TH JANUARY, 2014, OVERRULING THE
NO CASE SUBMISSION AND REFUSING TO REFER THE RULING
PURSUANT TO SECTION 68 OF ACT NO.31 OF 1965 (AS AMENDED)
FOR THE CONSIDERATION OF THE COURT OF APPEAL

AND

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
PURSUANT TO ORDER 53 OF THE SUPREME COURT PRACTICE 1999
AND ORDER 52 OF THE HIGH COURT RULES C.I. NO.8 OF 2007

AND

IN THE MATTER OF AN APPLICATION BY LANSANA S.M. ROBERTS
THE 3RD ACCUSED/APPLICANT HEREIN SEEKING THE ORDERS OF
CERTIORARI, MANDAMUS AND PROHIBITION AND OTHER
CONSEQUENTIAL ORDERS AND DIRECTIONS

AND

IN THE MATTER OF AN APPLICATION FOR THE ABOVE ORDERS
PURSUANT TO SECTION 125 OF THE CONSTITUTION OF SIERRA
LEONE ACT NO.6 OF 1991 & SECTION 23(1)(2)(4) & (7) OF THE
CONSTITUTION OF SIERRA LEONE ACT NO.6 OF 1991

AND

IN THE MATTER OF THE SUPREME COURT RULES PUBLIC NOTICE
NO.1 OF 1982 (NOW CONSTITUTIONAL INSTRUMENT NO.1 OF 1982)
RULES 89-98 INCLUSIVE

BETWEEN:

**THE STATE
VS.**

- RESPONDENT

**HON. MR. JUSTICE M.A. PAUL J. EX PARTE,
DR. MAGNUS KEN GBORIE,
DR. EDWARD MAGBITY &
LANSANA S.M. ROBERTS**

- (ACCUSED/APPLICANT)

CORAM:

HON. JUSTICE P.O. HAMILTON - J.S.C.

HON. JUSTICE V.A.D. WRIGHT - J.S.C.

HON. JUSTICE E.E. ROBERTS - J.A.

COUNSEL:

C.F. MARGAI Esq. FOR 3RD ACCUSED/ APPELLANT

**R.S. FYNN Esq., O.I.M.F. GEORGE Esq. AND M.I. KANY Esq. FOR
STATE/RESPONDENT**

Ruling Delivered on this 10th Day of June, 2014

HON. JUSTICE P.O. HAMILTON – JSC.

This is an application made to the Supreme Court for various orders to wit:

- (a) an Order for Certiorari
- (b) an Order of Mandamus and
- (c) an Order of Prohibition on various questions for the Court’s consideration.

Counsel for the 3rd Accused/Appellant C.F. Margai Esq. did raise certain preliminary objection in relation to the present constitution of the Court in relation to *Section 28(1) and (2), Section 23(1), (2), (4) and (7) of the Constitution of Sierra*

Leone 1991 (Act No.6 of 1991 which are under Chapter III of the said Constitution and Section 28(6)(a) of the said Constitution. Counsel then submitted that by virtue of *Section 28(6)(a) of the Constitution* the Supreme Court should consist of five and not three Justices.

Counsel for the State/Respondent did not contend to this objection raised by Counsel for the 3rd Accused/Appellant.

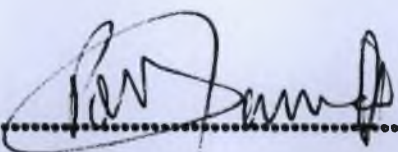
Section 28(6)(a) of the Constitution 1991 (Act No.6 of 1991) provides:

“The Supreme Court –

(a) Consisting of not less than five Justices of the Supreme Court shall consider every question referred to it under this chapter for a decision and having heard argument by or on behalf of the parties by Counsel”

Considering that the question raised for determination appears to fall under *Chapter III* of the said Constitution the provision contained in *Section 28(6)(a)* applies and the Supreme Court should comprise of five and not three Justices. This objection raised by Counsel for 3rd Accused/Appellant is upheld.

As regards the other objections raised by Counsel for 3rd Accused/Appellant this Court does not think it is necessary to consider them.



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HON. JUSTICE P.O. HAMILTON – JSC

I AGREE: Wright

HON. JUSTICE V.A.D. WRIGHT - J.S.C.

I AGREE: Roberts

HON. JUSTICE E.E. ROBERTS - J.A.

REF: POH/HJ