

IN THE HIGH COURT OF JUSTICE
CRIMINAL COURT (3)
LAW COURT COMPLEX
ACCRA – A. D. 2022

CASE NO. CR/0264/2022

THE REPUBLIC *** ** PROSECUTION/RESPONDENT/RESPONDENT

VRS

JAMES GYAKYE QUAYSON *** ** ACCUSED/APPELLANT/APPLICANT

MOTION ON NOTICE FOR STAY OF PROCEEDINGS PENDING APPEAL
(Inherent Jurisdiction of the Court)

PLEASE TAKE NOTICE that this Honourable Court shall be moved at the next adjourned date by counsel for and on behalf of the Accused/Appellant/Applicant herein, praying the court for an order staying the proceedings in this court pending the determination of the appeal filed in this Court on 27th June, 2023.

AND for any further or other order or orders as this Honourable Court may deem meet.

DATED AT KAPONDE & ASSOCIATES, SUITE 606/607, 6TH FLOOR, REPUBLIC HOUSE, GHANA SUPPLY COMPANY BUILDING, ACCRA THIS 27TH DAY OF JUNE, 2023.


SOLICITOR FOR THE ACCUSED/APPELLANT/APPLICANT

JUSTIN PWAVRA TERIWAJAH, ESQ.

SOLICITOR'S LICENCE NO. eGAR 00004/23

CHAMBER'S REGISTRATION NO. ePP00775/22

JUSTIN PWAVRA TERIWAJAH

LLB (GHANA), LL.M (PEKING)

SOLICITOR AND BARRISTER

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THE REGISTRAR
HIGH COURT
CRIMINAL DIVISION (3)
ACCRA

AND TO THE ATTORNEY-GENERAL, ATTORNEY-GENERAL'S DEPARTMENT,
MINISTRIES – ACCRA.

IN THE HIGH COURT OF JUSTICE

CRIMINAL COURT (3)

LAW COURT COMPLEX

ACCRA – A. D. 2022

Filed on 27/06/2023

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HIGH COURT

CASE NO. CR/0264/2022

THE REPUBLIC

*** **** ***** PROSECUTION/RESPONDENT/RESPONDENT

VRS

JAMES GYAKYE QUAYSON *** **** ***** ACCUSED/APPELLANT/APPLICANT

**AFFIDAVIT IN SUPPORT OF MOTION FOR
STAY OF PROCEEDINGS PENDING APPEAL**

I, **JUSTIN PWAVRA TERIWAJAH**, of Flat No. E3, Accra Technical University in the Greater Accra Region of the Republic of Ghana do hereby make oath and say as follows:

1. That I am the Solicitor for the Accused/Appellant/Applicant herein, and have his authority to depose to this affidavit which is about matters that have come to my knowledge.
2. That at the hearing of this application, counsel for the Accused/Appellant/Applicant shall seek the leave of this Court to refer to all or any of the processes filed in this case as if the same had been made a part of this affidavit in support and sworn to on oath.
3. That on 23rd June 2023, this High Court presided over by Her Ladyship, Justice Mary Maame Ekue Yanzuh, delivered a ruling dismissing the motion by the Accused/Appellant/Applicant herein for a review and/or variation of previous orders of the court dated 16th June, 2023. Attached herewith and marked **Exhibit A** is a copy of the said ruling.
4. That dissatisfied with the said ruling, the Accused/Appellant/Applicant has appealed against the ruling to the Court of Appeal. Attached herewith, marked **Exhibit B**, is a copy of the notice of appeal against the said ruling.
5. That the appeal is likely to succeed in the light of the errors of law set out in the notice of appeal, including the endorsement, in effect, of prejudice to a fair trial clearly in breach of the accused person's constitutional rights to a fair trial.

6. That the decision of this Court that evidence of extremely prejudicial, unjustified and insulting remarks by the Attorney-General is not relevant to the determination of the application for review is clearly in error.
7. That the decision of the court on 23rd June 2023 was contradictory to the decision of the court on 21st June 2023 when an objection by the Attorney-General to the supplementary affidavit filed in support of the application for review was dismissed on the basis that the averments in the supplementary affidavit were relevant to the allegations about the extremely prejudicial, unjustified and insulting remarks of the Attorney-General.
8. That the ruling of 23rd June 2023 which is the subject-matter of the appeal filed on behalf of the accused, amounts to endorsing the conduct of the Attorney-General which was complained of in the application for review.
9. That, apparently emboldened by the ruling of this court on 23rd June 2023, the extremely prejudicial, unjustified and insulting remarks of the Attorney-General were escalated to the level of the President, Nana Addo Dankwa Akufo-Addo.
10. That, at a campaign rally for the candidate of the New Patriotic Party (NPP), the said President made many prejudicial remarks, including some to the effect that the voters in the Assin North Constituency should not vote for a candidate who could end up in prison.
11. The said remarks were widely reported in the media and can be found, for instance, on the website: <https://www.ghanaweb.com/GhanaHomePage/politics/Assin-North-by-election-What-is-the-use-of-voting-for-someone-going-to-jail-Akufo-Addo-1792649> .
12. That, at the hearing of this application, counsel for the accused person will seek leave of the court to play in court an approximately one-and-a-half-minute clip of the remarks of the President at the said rally.
13. That any objective listener to the said remarks will be left in no doubt about their prejudicial nature and about the apparent pre-determination of the outcome of the trial.


14. That in a trial before Her Ladyship, an appointee of the said President, genuine doubts are thereby inevitably raised about the fairness of the trial in the light of the extrajudicial remarks of the President and the Attorney-General as well as the remarks made in court on 16th June 2023 by the Attorney-General.
15. That both the President and the Attorney-General are clearly craving for the conviction and imprisonment of the accused person by fair or foul means without any regard whatsoever to the constitutionally guaranteed fundamental human rights of the accused person.
16. That the conduct of the Attorney-General is very similar to the conduct of the President when he was Attorney-General in 2001 when he initiated a similar trial of Mr. Tsatsu Tsikata with a pre-determined outcome of convicting and imprisoning Mr. Tsatsu Tsikata.
17. That Mr. Tsatsu Tsikata found himself, on 18th June 2008, a day which had not even been set for continuation of his trial, much less conviction and sentence, convicted and sentenced to five years' imprisonment.
18. That the conduct of the Attorney-General and his prejudicial utterances on this case on 16th June 2023 prior to his applying for a day-to-day trial of this case suggests that the outcome of this case has been predetermined and hence the Accused/Appellant/Applicant has cause to fear that his right to a fair trial is in jeopardy.
19. That the ruling of this court on 23rd June 2023 already appears to have emboldened the further prejudicial remarks of the President above referred to.
20. That the appeal of the accused/Appellant/Applicant herein seeks to enforce his constitutional rights and prevent a similar process of an unfair trial as Mr. Tsatsu Tsikata experienced, which could lead to his being convicted at all costs by fair or foul means.
21. That if proceedings are not stayed during the pendency of the said appeal, the right of the Accused/Appellant/Applicant to a fair trial will be rendered nugatory.
22. That justice must not only be done but must be seen to be done and the pre-determination of the outcome of the current trial by the President and

the Attorney-General glaringly amounts already to a miscarriage of justice.

23. That all the above constitute exceptional circumstances on the basis of which we respectfully seek orders of the court staying the proceedings in this case till the determination of the appeal.

24. **WHEREFORE** I swear to this affidavit in support of the application herein for stay of proceedings in the instant suit pending the determination of the appeal.


DEPONENT

Sworn in Accra this 
day of June, 2023.

BEFORE ME


COMMISSIONER FOR OATHS

IN THE HIGH COURT OF JUSTICE
CRIMINAL COURT (3)
LAW COURT COMPLEX
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THE REPUBLIC *** ** PROSECUTION/RESPONDENT/RESPONDENT

VRS

JAMES GYAKYE QUAYSON *** ** ACCUSED/APPELLANT/APPLICANT

CERTIFICATE OF EXHIBITS

I **JUSTINA CLOTTEY** Commissioner
for Oaths of Accra do hereby certify that the underlisted documents have
been exhibited to the affidavit of **Justin Pwavra Teriwajah** which has been
sworn before me:

1. **“Exhibit A”** which is a copy of the ruling of this High Court dated 23rd
June, 2023; and
2. **“Exhibit B”** which is a copy of the notice of appeal filed by the
Accused/Appellant/Applicant against the decision of this Court in Exhibit
A.

DATED AT ACCRA THIS ^{27th} DAY OF JUNE, 2023.

BEFORE ME **JUSTINA CLOTTEY**

COMMISSIONER FOR OATHS
ACCRA, ARTS CENTRAL

THE REGISTRAR
HIGH COURT
CRIMINAL DIVISION (3)
ACCRA