

18-10-2024

IN THE SUPERIOR COURT OF JUDICATURE, THE SUPREME COURT  
(CIVIL DIVISION) SITTING IN ACCRA ON FRIDAY THE 18<sup>TH</sup> DAY OF  
OCTOBER, 2024.

CORAM: G. S. TORKORNOO (MRS) C. J (PRESIDING), OWUSU,  
ASIEDU, GAEWU AND DARKO ASARE JJSC.

WRIT  
NO. J1/01/2025

ALEXANDER AFENYO MARKIN

VRS

1. SPEAKER OF PARLIAMENT
  2. ATTORNEY - GENERAL
- 

PARTIES

Plaintiff is present  
Defendant absent

LEGAL REPRESENTATION

Paa Kwasi Abaidoo led by Joe Gharthey for the Applicant with John Bossman and Sandra Osei.

Mr. Abaidoo

We have an application Ex-Parte for Stay of Execution of the ruling of the Speaker of Parliament delivered on 17<sup>th</sup> October, 2024 pending the determination of this suit. We seek an order from this Court staying the ruling of the Rt. Honourable Speaker for ordering 4 members of Parliament namely:

1. Hon. Andrew Asiamah Amoako. Fomena Constituency , current 2<sup>nd</sup> Deputy Speaker of Parliament
2. Cynthia Morrison – Current Member of Parliament for Agona West
3. Hon. Kwadwo Asante, Member of Parliament for Suhum in Eastern Region
4. Peter Yaw Kwakye Ackah, Member of Parliament for Amanfi Central.

I move in terms of motion paper and supporting affidavit and exhibits.  
We refer to paragraphs 4, 5, 6, 8 and 9 of our affidavit in support.

In paragraph 4 – Speaker of Parliament was served through legal Department with the Writ and Application for Injunction.

By presumption of law, he knew of the pendency of this action.

In paragraph 5, - Speaker at sitting on 17<sup>th</sup> October, 2024 disclosed that he had been informed by the Plaintiff/ Applicant herein that he had been sued by the virtue of his office.

He was very much aware that the question of Interpretation of Article 97(1)(g) and (h) were the subject of a suit for interpretation before this Court.

By this acknowledgement, he was required by law to restrain himself from pronouncements made.

We've come ex-parte because of the urgency of this matter and upon the conjoint reading of Article 29(5), and Order 19 (3) (3) of C.I 47 of High Court (Civil Procedure) Rules and where the subject of the application is likely to cause irreparable damage, a stay of execution must be granted.

We refer to paragraph 8 and the enumeration of 6 grounds.

- a. Ex-parte because of the likely mischief being a halt to the business of Parliament especially committees chaired by the current majority members.
- b) Likelihood of the current minority members doing everything in their power to halt business of government in these dying minutes of the period to 2024 elections.
- c) A delay of Government appropriation which could require the approval of Parliament.
- d) The ruling amounts to a denial of the Constitutional rights of these four constituencies to be lawfully represented in Parliament.
- e) Exhibit B – the ruling on page 3 - “ In doing so...”

Clearly, the Speaker of Parliament was usurping the Original and Exclusive Jurisdiction of this Honourable Court and he himself recognized it. By over

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understanding of Article 97 (1) (h), (g) the step taken by these four Parliamentarians were meant for the 9<sup>th</sup> Parliament of Ghana coming in a different identity.

It does not amount to crossing carpet in the current Parliament. The Speaker did not point to any communication from the MPs, they were not heard at all and so their right under rules of natural justice, the audi alteram partem rule and that of their constituents has been breached.

We can face mayhem if the pre ruling status quo is not maintained.

Granted a maximum of ten days, we shall repeat this application for the defendants to provide justification.

We pray accordingly.

Case stood down

**BY COURT:**

The Plaintiff/Applicant has presented this present ex parte application for stay of execution of a ruling of the Speaker of Parliament declaring vacant the seats of 4 MPs and ordering the current Members of Parliament to vacate their seats in Parliament on account of his declarations.


We have read the supporting affidavits and attached exhibits as well as the reliefs endorsed on the writ of summons filed on 15th October 2024 which provide the basis of the current application.

We note from Exhibit B, the Official Report on the Parliamentary Debates on Thursday 17th October 2024 pages 15, 16 and 17 that the Speaker of Parliament was aware that Bailiffs of the Supreme Court had served the current action on him through the Legal Office of Parliament. His objection to this proper service of a process from the Supreme Court was that it had not been done on a Monday.

We appreciate the urgency and special circumstances presented to support the filing of this application.

The urgency and special circumstances lie in the effect of the impugned ruling which include:

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1. Depriving the four constituencies that said MPs represent namely

- i. Honourable Andrew Asiana, MP for Fomena Constituency in the Ashanti Region and Current 2<sup>nd</sup> Deputy Speaker.
- ii. Honourable Cynthia Morrison , current MP for Agona in the Central Region
- iii. Honourable Kwadwo Asante, MP for Suhum in the Eastern Region
- iv. Peter Yaw Kwakye-Ackah, MP for Amenfi Central, in the Western Region of representation.

The said four constituencies in Ashanti, Eastern, Western and Central Regions have been deprived of their basic democratic and constitutional right of representation in Parliament until the next Parliament by the said ruling.

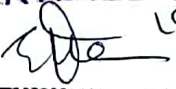
Applicant urges and we appreciate that the said ruling will also likely lead to alleged thwarting of Government business in Parliament and plunge the due management of the affairs of the country into possible disruptions.

Further, the subject matter of this suit raises real questions of Constitutional interpretation and application of the most fundamental and democratic rights of Ghanaians being the right to be represented and heard in Parliament through their elected representatives.

If this impugned order and ruling is allowed to stand, it will render the grave issues raised in the substantive action nugatory.

On the balance of the law, exhibits and facts placed before us, we are satisfied that the duly elected representatives in question were not heard on the extremely critical issue raised and therefore we make the following orders.

1. The execution of the ruling of the Right Honourable Speaker of Parliament Alban Sumana Kingsford Bagbin dated 17th October 2024 delivered on the floor of Parliament declaring vacant the seats of the following Members of Parliament
  - a. Honourable Peter Yaw Kwakye-Ackah, NDC MP for Amenfi Central.
  - b. Honourable Andrew Amoako Asiana, Independent Member of Parliament for Fomena Constituency
  - c. Honourable Kwadwo Asante, NPP (MP) for Suhum Constituency
  - d. Honourable Cynthia Mamle Morrison, (NPP) MP for Agona West Constituency is hereby stayed pending the final determination of this suit

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numbered **J1/1/2025** filed on 15th October 2024 titled **Alexander Afenyo Markin vrs Speaker of Parliament and Attorney General.**

2. The Parliament of Ghana is hereby directed to recognise and allow the 4 affected Members of Parliament herein named to duly represent their constituents and conduct the full scope of the duties of their offices as Members of Parliament pending the determination of this suit.

3. In view of the gravity of the issues raised in this instant suit and the urgency of this matter, this Court hereby directs that, pursuant to article 129(4) of the 1992 Constitution and Rule 5 of CI 16, the Defendants – Speaker of Parliament and the Attorney General are to file their statements of case within 7 days of service of this ruling.

4. The parties are further ordered to file their joint Memorandum of Issues within seven days of filing of their statement of case for the due hearing of this suit.

(SGD) **G. S. TORKORNOO (MRS)**  
**CHIEF JUSTICE**

(SGD) **M. OWUSU (MS)**  
**JUSTICE OF THE SUPREME COURT**

(SGD) **S.K.A ASIEDU**  
**JUSTICE OF THE SUPREME COURT**

(SGD) **E.Y GAEWU**  
**JUSTICE OF THE SUPREME COURT**

(SGD) **Y. DARKO ASARE**  
**JUSTICE OF THE SUPREME COURT**

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*E. Y. Gaewu* 18/10/2024  
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