

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA – A. D. 2026

Filed on...

7/08/2026
9:20 am
Registrar
SUPREME COURT OF GHANA

SUIT NO:

J1/28/2026

WRIT TO INVOKE ORIGINAL JURISDICTION

ELORM KWAMI GORNI
H/N 23 WEST LEGON, ACCRA

PLAINTIFF

VRS

THE ATTORNEY GENERAL
ATTORNEY-GENERAL'S DEPARTMENT
MINISTRIES - ACCRA

1ST DEFENDANT

THE CHIEF JUSTICE
JUDICIAL SERVICE OF GHANA, ACCRA

2ND DEFENDANT

IN THE NAME OF THE REPUBLIC OF GHANA, you are hereby commanded within fourteen days of the service on you of the statement of the Plaintiff's case, inclusive of the day of service, that you are to file or caused to be filed a statement of the Defendants' case in an action at the suit of:

ELORM KWAMI GORNI

THE RELIEFS SOUGHT ARE AS FOLLOWS:

- a) A declaration that the practice of legal vacation as observed by the Superior Courts of Judicature of the Republic of Ghana, in so far as it results in the suspension or substantial restriction of the hearing and determination of cases, thereby occasioning undue delay in the administration of justice and unjustifiably restricting access to the courts, is inconsistent with and in contravention of Articles 1(2), 19(1), 23, 125 and 296 of the Constitution of the Republic of Ghana, 1992, and is therefore unconstitutional to the extent of its inconsistency.
- b) A declaration that the practice of legal vacation as observed by the Superior Courts of Judicature of the Republic of Ghana, in so far as it results in the suspension of the hearing and determination of cases by the Court of Appeal and the Supreme Court for a continuous period of two

months, thereby occasioning undue delay in the administration of justice and restricting litigants' access to the Courts, is inconsistent with and in contravention of Articles 1(2), 19(1), 23, 33, 125 and 296 of the Constitution of the Republic of Ghana, 1992, and is therefore unconstitutional, null, void and of no effect to the extent of the inconsistency.

- c) A declaration that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), in so far as they provide for or permit the suspension of the sittings of the Court of Appeal and the Supreme Court for a continuous period of two months during legal vacation, thereby delaying the hearing and determination of cases and restricting access to justice, are inconsistent with and in contravention of Articles 1(2), 19(1), 23, 33(1), 125(3), 125 and 296 of the Constitution of the Republic of Ghana, 1992, and are accordingly null, void and of no effect to the extent of the inconsistency.
- d) An order striking down Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), to the extent that they authorise or permit the suspension of the sittings of the Court of Appeal and the Supreme Court during the period designated as legal vacation, as being unconstitutional, null, void and of no effect to the extent of their inconsistency with the relevant provisions of the Constitution of the Republic of Ghana, 1992.
- e) A declaration that, upon the true and purposive interpretation of Article 19(1) of the Constitution of the Republic of Ghana, 1992, the constitutional guarantee of a fair hearing within a reasonable time imposes a continuing obligation on the State and the Judiciary to organize and administer the system of justice in a manner that ensures the continuous institutional availability of the Superior Courts for the timely hearing and determination of proceedings through constitutionally compliant arrangements, notwithstanding periods of legal vacation.
- f) An order directing the Chief Justice to make such administrative and procedural arrangements, including the institution of rotational vacation

sittings, as may be necessary to ensure that the Court of Appeal and the Supreme Court continue to hear and determine cases throughout the period designated as legal vacation, in conformity with the Constitution of the Republic of Ghana, 1992.

THE CAPACITY IN WHICH THE PLAINTIFF IS BRINGING THE ACTION IS AS FOLLOWS:

1. Plaintiff brings the action in his capacity as a citizen of the Republic of Ghana.

THE ADDRESS FOR SERVICE OF THE PLAINTIFF IS AS FOLLOWS:

H/N 23, ERNEST NAJEM AVENUE,
WEST LEGON- ACCRA. TELEPHONE NO. 0246738319

THE NAMES AND ADDRESSES OF PERSONS AFFECTED BY THIS WRIT ARE AS FOLLOWS:

1. **THE ATTORNEY GENERAL**
ATTORNEY GENERAL'S DEPARTMENT
MINISTRIES, ACCRA
2. **THE CHIEF JUSTICE**
THE JUDICIAL SERVICE OF GHANA
ACCRA

DATED AT ACCRA, THIS 28TH DAY OF JULY 2026


.....
ELORM KWAMI GORNI
PLAINTIFF

THE REGISTRAR
SUPREME COURT
ACCRA

AND FOR SERVICE ON:

1. **THE ATTORNEY GENERAL, ATTORNEY GENERAL'S DEPARTMENT, MINISTRIES, ACCRA**
2. **THE CHIEF JUSTICE, JUDICIAL SERVICE OF GHANA, ACCRA**

7/08/2020
9:28am
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IN THE SUPERIOR COURT OF JUDICATURE

IN THE SUPREME COURT OF JUSTICE

ACCRA – A. D. 2026

Registrar
SUPREME COURT OF GHANA

SUIT NO:

ELORM KWAMI GORNI
H/N 23 WEST LEGON, ACCRA

PLAINTIFF

VRS

THE ATTORNEY GENERAL
ATTORNEY-GENERAL'S DEPARTMENT
MINISTRIES - ACCRA

1ST DEFENDANT

THE CHIEF JUSTICE
JUDICIAL SERVICE OF GHANA, ACCRA

2ND DEFENDANT

STATEMENT OF PLAINTIFF'S CASE

RULES 45, SUPREME COURT RULES, 1996, C.I. 16 (AS AMENDED BY
C.I. 24, 1999)

1. INTRODUCTION

This is an action invoking the original jurisdiction of this Honourable Court pursuant to Articles 2(1) and 130(1) of the Constitution of the Republic of Ghana, 1992, and Rule 45 of the Supreme Court Rules, 1996 (C.I. 16), as amended by C.I. 24 of 1999, for the interpretation and enforcement of the Constitution. The reliefs sought are as follows:

- a) A declaration that the practice of legal vacation as observed by the Superior Courts of Judicature of the Republic of Ghana, in so far as it results in the suspension or substantial restriction of the hearing and determination of cases, thereby occasioning undue delay in the administration of justice and unjustifiably restricting access to the courts, is inconsistent with and in contravention of Articles 1(2), 19(1), 23, 125 and 296 of the Constitution of the Republic of Ghana, 1992, and is therefore unconstitutional to the extent of its inconsistency.
- b) A declaration that the practice of legal vacation as observed by the Superior Courts of Judicature of the Republic of Ghana, in so far as it

results in the suspension of the hearing and determination of cases by the Court of Appeal and the Supreme Court for a continuous period of two months, thereby occasioning undue delay in the administration of justice and restricting litigants' access to the Courts, is inconsistent with and in contravention of Articles 1(2), 19(1), 23, 33, 125 and 296 of the Constitution of the Republic of Ghana, 1992, and is therefore unconstitutional, null, void and of no effect to the extent of the inconsistency.

- c) A declaration that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), in so far as they provide for or permit the suspension of the sittings of the Court of Appeal and the Supreme Court for a continuous period of two months during legal vacation, thereby delaying the hearing and determination of cases and restricting access to justice, are inconsistent with and in contravention of Articles 1(2), 19(1), 23, 33(1), 125(3), 125 and 296 of the Constitution of the Republic of Ghana, 1992, and are accordingly null, void and of no effect to the extent of the inconsistency.
- d) An order striking down Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), to the extent that they authorise or permit the suspension of the sittings of the Court of Appeal and the Supreme Court during the period designated as legal vacation, as being unconstitutional, null, void and of no effect to the extent of their inconsistency with the relevant provisions of the Constitution of the Republic of Ghana, 1992.
- e) A declaration that the constitutional guarantee of a fair hearing within a reasonable time under Article 19(1) of the Constitution of the Republic of Ghana, 1992 imposes a continuing obligation on the State and the Judiciary to organize and administer the judicial system in a manner that facilitates the effective and timely hearing and determination of proceedings before the Courts.
- f) An order directing the Chief Justice to make such administrative and procedural arrangements, including the institution of rotational vacation sittings, as may be necessary to ensure that the Court of Appeal and the

Supreme Court continue to hear and determine cases throughout the period designated as legal vacation, in conformity with the Constitution of the Republic of Ghana, 1992.

2. PARTIES

2.1 The Plaintiff is a citizen of the Republic of Ghana and a person entitled under Articles 2(1) and 130(1) of the Constitution of the Republic of Ghana, 1992, to invoke the original jurisdiction of this Honourable Court for the interpretation and enforcement of the Constitution and for a determination as to whether the practice of legal vacation, and the provisions of Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), are inconsistent with and in contravention of the Constitution.

2.2 The 1st Defendant is the Attorney-General of the Republic of Ghana, the principal legal adviser to the Government pursuant to Article 88(1) of the Constitution and the proper person to be sued on behalf of the State under Article 88(5) of the Constitution and section 9 of the State Proceedings Act, 1998 (Act 555).

2.3 The 2nd Defendant is the Chief Justice of the Republic of Ghana, the Head of the Judiciary and Chairperson of the Rules of Court Committee pursuant to Articles 125(4) and 157(1) of the Constitution respectively. The 2nd Defendant is constitutionally responsible for the administration and supervision of the Judiciary, the assignment of courts, the regulation of judicial sittings, and the implementation of the Rules of Court. The 2nd Defendant is therefore a necessary party to this action: the constitutionality of the legal vacation regime, the impugned Rules of Court, and the

administrative practice governing the sittings of the Supreme Court and the Court of Appeal being directly in issue.

3. FACTS

3.1 The Superior Courts of Judicature of Ghana, by long-standing practice and pursuant to their respective Rules of Court, observe an annual legal vacation from the 1st day of August to the 30th day of September.

3.2 During the legal vacation, the High Court continues to sit on a limited basis through designated vacation courts for specified urgent matters.

3.3 The Court of Appeal and the Supreme Court, however, do not sit throughout the entire period of the legal vacation. No sittings are held, and no appeals, constitutional actions, applications, or other proceedings are heard or determined during that period.

3.4 Consequently, litigants with pending matters before the Court of Appeal and the Supreme Court are compelled to wait until the expiration of the legal vacation before their cases can proceed, regardless of the urgency, importance, or nature of the issues involved.

3.5 The Plaintiff contends that the complete suspension of sittings of the Court of Appeal and the Supreme Court during the period designated as legal vacation occasions systemic delay in the administration of justice, impedes the timely hearing and determination of pending cases, and unjustifiably restricts litigants' constitutional rights to a fair hearing within a reasonable time, fair and reasonable administrative treatment, and effective access to

the courts, contrary to Articles 19(1), 23, 33, 125 and 296 of the Constitution of the Republic of Ghana, 1992.

3.6The Plaintiff further contends that the impugned practice disproportionately affects litigants seeking constitutional remedies, enforcement of fundamental human rights, appeals, and other urgent judicial reliefs, by depriving them of access to the Court of Appeal and the Supreme Court for a continuous period of two months, irrespective of the urgency or gravity of their cases.

4. PLAINTIFF'S CASE

4.1The Plaintiff contends that the practice of legal vacation, insofar as it results in the complete suspension of sittings of the Court of Appeal and the Supreme Court for a continuous period of approximately two months in every legal year, constitutes an unreasonable, arbitrary, and unconstitutional administrative practice which is inconsistent with the letter and spirit of the 1992 Constitution

4.2The Plaintiff says that the said practice unjustifiably delays the hearing and determination of appeals, constitutional actions, applications, and other proceedings, thereby denying litigants their constitutional right to a fair hearing within a reasonable time guaranteed under Article 19(1) of the Constitution.

4.3The Plaintiff further contends that the prolonged suspension of judicial sittings impedes access to justice and amounts to administrative action that is unfair, unreasonable, and inconsistent with Article 23 of the Constitution.

4.4The Plaintiff avers that the blanket suspension of sittings of the Court of Appeal and the Supreme Court during legal vacation is neither reasonably necessary nor proportionate to any legitimate administrative objective, particularly where less restrictive measures, including the constitution of vacation panels, rotational sittings, or other judicial arrangements, are reasonably available to ensure the continuous administration of justice.

4.5The Plaintiff further says that any discretionary power exercised in determining whether any proceedings may be heard during legal vacation is exercised without clear, objective, and transparent constitutional standards, thereby offending Article 296 of the Constitution, which requires discretionary powers to be exercised fairly, reasonably, and without arbitrariness.

4.6The Plaintiff further contends that the effective closure of the Court of Appeal and the Supreme Court during legal vacation substantially impairs the enforcement of fundamental human rights and freedoms by delaying access to the superior courts for the vindication of constitutional rights, contrary to Articles 33(1) and 33(3) of the Constitution.

4.7The Plaintiff further contends that Article 33(3) of the Constitution guarantees every person aggrieved by a determination of the High Court the constitutional right of appeal to the Court of Appeal, with a further right of appeal to the Supreme Court. The Plaintiff says that these rights of appeal must be practical, effective, and capable of timely exercise, and not merely theoretical or illusory. Consequently, any rule or administrative practice which results in the complete cessation of sittings of the Court of Appeal and the Supreme Court for a continuous period of two months substantially impairs the effective enjoyment and enforcement of the

constitutional right of appeal guaranteed under Article 33(3) of the Constitution.

4.8 The Plaintiff says that Article 125 of the Constitution vests the judicial power of Ghana exclusively in the Judiciary and imposes upon the Courts the constitutional duty to administer justice in accordance with the Constitution and the laws of Ghana. The exercise of judicial power is a continuing constitutional function which cannot be suspended or interrupted except as expressly authorised by the Constitution.

4.9 The Plaintiff contends that neither the Constitution nor any other constitutional provision contemplates a complete suspension of the sittings of the Supreme Court or the Court of Appeal for a continuous period of two months. While the Rules of Court may regulate the practice and procedure of the Courts, they cannot curtail, suspend, or substantially impede the exercise of the constitutional jurisdiction vested in those Courts.

4.10 The Plaintiff readily acknowledges that judicial officers are entitled to reasonable periods of leave and rest. However, the Plaintiff contends that the organisation of judicial leave and legal vacation must be undertaken in a manner that does not occasion the complete suspension of the constitutional functions of the Court of Appeal and the Supreme Court, or otherwise impede litigants' constitutional rights to a fair hearing within a reasonable time and effective access to justice.

4.11 The Plaintiff further contends that the Constitution does not contemplate a situation where the apex Court of the Republic ceases to sit for a continuous period of two months while litigants with pending appeals,

constitutional actions, and applications are denied access to the Court. Such a practice is inconsistent with the constitutional role of the Supreme Court as the ultimate guardian of the Constitution and the final arbiter of justice.

4.12 The Plaintiff will accordingly submit that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), and the administrative practice implemented pursuant thereto, insofar as they authorise or result in the suspension or cessation of the sittings of the Court of Appeal and the Supreme Court during the period designated as the legal vacation, are inconsistent with and in contravention of Articles 1(2), 19(1), 23, 33(1), 33(3), 125(1) and 296 of the Constitution of the Republic of Ghana, 1992, and are consequently null, void and of no effect to the extent of their inconsistency.

4.13 The Plaintiff therefore respectfully invites this Honourable Court, in the exercise of its original jurisdiction under Articles 2(1) and 130(1) of the Constitution, to declare that the impugned provisions and the administrative practice implemented pursuant thereto are unconstitutional to the extent of their inconsistency with the relevant provisions of the Constitution, and to grant such declaratory, mandatory, consequential, and supervisory orders as may be necessary to ensure that the Court of Appeal and the Supreme Court continue to discharge their constitutional mandate throughout the legal year in a manner consistent with the guarantees of fair hearing within a reasonable time, the effective exercise of the constitutional right of appeal, administrative justice, and access to justice.

5. JURISDICTION OF THE COURT

5.1 My Lords, the jurisdiction of this Honourable Court in matters relating to the interpretation and enforcement of the Constitution is derived from

Articles 2(1) and 130(1) of the Constitution of the Republic of Ghana, 1992. By these provisions, this Honourable Court is vested with exclusive original jurisdiction to determine whether any enactment, subsidiary legislation, administrative practice, act or omission of any person or authority is inconsistent with or in contravention of the Constitution.

5.2 Accordingly, where a Plaintiff alleges that an enactment, constitutional instrument, administrative practice or omission violates a provision of the Constitution, this Honourable Court is the only Court competent to pronounce upon its constitutionality and to grant the appropriate declaratory and consequential reliefs.

5.3 My Lords, it is now well settled that a party invoking the original jurisdiction of this Honourable Court must demonstrate that the action raises a genuine and substantial issue concerning the interpretation or enforcement of the Constitution or the constitutional validity of an enactment or subsidiary legislation.

5.4 In *Adumoa Twum II v. Adu Twum II* [2000] SCGLR 165, Acquah C.J. stated that:

"The original jurisdiction vested in the Supreme Court under Articles 2(1) and 130(1) to interpret and enforce the provisions of the Constitution is a special jurisdiction to be invoked in suits raising genuine or real issues of interpretation of a provision of the Constitution; or enforcement of a provision of the Constitution; or a question of whether an enactment was made ultra vires by Parliament or any other authority or person by law or under the Constitution."

5.5 Likewise, in **National Democratic Congress v. Electoral Commission [2001–2002] SCGLR 954 at 958, Wiredu JSC** (as he then was) held that: *"Where an act or omission of any person is challenged under Article 2 of the 1992 Constitution, such act or omission must be shown to have taken place, and it must be shown that such act or omission falls foul of a specific provision of the Constitution, or at the very least, the spirit of an actual provision."*

5.6 The Plaintiff respectfully submits that the present action satisfies the constitutional threshold established by the above authorities. The Plaintiff specifically alleges that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), and the administrative practice implemented pursuant thereto are inconsistent with Articles 1(2), 12(1), 19(1), 23, 33, 125 and 296 of the Constitution.

6. The Plaintiff highly relies on the case of **Luke Mensah of Sunyani vs. Attorney-General [2003-2004] SCGLR 122**, where the Supreme Court speaking through ACQUAH, CJ (as he then was) stated that: **"we are convinced that as the highest court of the land, charged with the constitutional authority to interpret and enforce the Constitution, and thereby promote rule of law in our society, we should, in fitting situations, rise to the occasion and determine disputes likely to endanger our infant democracy. And we would do this if the subject matter falls within our jurisdiction and procedural errors committed by the Plaintiff are not so fundamental as to amount to a denial of our jurisdiction"**.

6.1 My Lords, this Honourable Court has consistently held that the Constitution is a living instrument which must receive a broad, liberal and purposive interpretation. In **Tuffuor v. Attorney-General [1980] GLR 637**, Sowah JSC (as he then was) observed that a constitution is "**a living organism capable of growth and development**" and should therefore be interpreted broadly and purposively to give effect to the intention of its framers and the aspirations of the people.

6.2 The Plaintiff respectfully submits that the present action calls for such a purposive interpretation. The issue before this Honourable Court is not merely whether the Rules of Court provide for legal vacation, but whether the complete suspension of the sittings of the Court of Appeal and the Supreme Court for a continuous period of two months is compatible with the constitutional guarantees of fair hearing within a reasonable time, effective access to justice, the constitutional right of appeal, and the continuous exercise of judicial power.

6.3 My Lords, the impugned provisions are contained in Constitutional Instruments made pursuant to constitutional authority. However, it is settled law that subsidiary legislation derives its validity from the Constitution and cannot override, curtail or derogate from constitutional rights or constitutional powers.

6.4 In **Sam (No. 2) v. Attorney-General [2000] SCGLR 305**, this Honourable Court affirmed that subsidiary legislation and constitutional instruments are subject to constitutional scrutiny and may be declared unconstitutional where they are inconsistent with the Constitution. Consequently, Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation)

of the Supreme Court Rules, 1996 (C.I. 16), are amenable to review under Articles 2(1) and 130(1) of the Constitution.

6.5 The Plaintiff further submits that Article 125 of the Constitution establishes the Judiciary, the Supreme Court and the Court of Appeal as constitutional institutions vested with judicial power and appellate jurisdiction. The exercise of that jurisdiction cannot be substantially impeded by subsidiary legislation or administrative practice in a manner inconsistent with the Constitution.

6.6 My Lords, It is the Plaintiff's respectful submission that the impugned Rules, in so far as they authorise or permit the complete suspension of sittings of the Court of Appeal and the Supreme Court during legal vacation, substantially impede the exercise of the constitutional jurisdiction vested in those Courts, delay the administration of justice, and unjustifiably impair litigants' constitutional rights to a fair hearing within a reasonable time and the effective exercise of the constitutional right of appeal.

6.7 My Lords, the issues raised in this action are neither hypothetical nor academic. They concern the constitutional validity of subsidiary legislation governing the operations of the two highest appellate courts of the Republic and the extent to which such legislation may lawfully restrict the exercise of constitutional jurisdiction and the enjoyment of constitutional rights.

6.8 The Plaintiff therefore respectfully submits that this action raises genuine and substantial issues relating to the interpretation and enforcement of the

Constitution and falls squarely within the exclusive original jurisdiction of this Honourable Court under Articles 2(1) and 130(1) of the Constitution.

7. PLAINTIFF'S LEGAL ARGUMENTS

a. The Impugned Provisions

6.1 My Lords, the principal question for determination in this action is whether Order 79 (4) of High Court (Civil Procedures) Rules, 2004 (C.I. 47), Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), together with the administrative practice implemented pursuant thereto, are consistent with the Constitution of the Republic of Ghana, 1992, in so far as they authorise or permit the complete suspension of the sittings of the Court of Appeal and the Supreme Court during the period designated as legal vacation.

6.2 The Plaintiff respectfully submits that the present action is not directed against the entitlement of judicial officers to periods of leave and rest. Rather, it is directed at the constitutional validity of the impugned Rules and the administrative practice by which the Court of Appeal and the Supreme Court cease sitting for a continuous period of two months, thereby delaying the hearing and determination of cases and impairing litigants' constitutional rights.

6.3 Order 79(4) of the High Court (Civil Procedures) Rules, 2004 (C.I. 47), provides as follows:

Subject to rule 1 (1) the following periods shall be observed in the High Court as vacations

(a) The period commencing on the Tuesday immediately following Easter Monday in each year and ending on the Friday immediately following Easter Monday in each year and ending on the Friday immediately following;

(b) **The period commencing on 1st August in each year and ending on 30th September in the year; and**

(c) The period commencing on 23rd December in each year and ending on 6th January in the next year.

6.4 Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), provides as follows:

Rule 61 – Vacation of the Court

"The following periods shall be observed in the Court as vacations—

(a) the period commencing on the Tuesday immediately following Easter Monday in each year and ending on the Friday immediately following;

(b) the period commencing on the 1st day of August in each year and ending on the last day of September in that year; and

(c) the period commencing on the 24th day of December in each year and ending on the 6th day of January in the year immediately following."

6.5 Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), similarly provides:

Rule 82 – Vacation

"Vacation means any of the following periods—

(a) the period commencing on the Tuesday immediately following Easter Monday in each year and ending on the Friday immediately following;

(b) the period commencing on the 1st day of August in each year and ending on the last day of September in that year; and

(c) the period commencing on the 24th day of December in each year and ending on the 6th day of January in the ensuing year."

6.6 My Lords, just as the impugned Rules prescribe periods designated as "vacation," they have, in practice, resulted in the complete suspension of the sittings of the Court of Appeal and the Supreme Court during the period from 1st August to 30th September each year, the longest of the three (3) vacations provided for by the respective rules of the two (2) appellate courts in question. It is the constitutional effect of the Rules, and not merely their text, that is challenged in the present action.

6.7 The Plaintiff respectfully submits that, to the extent that the impugned Rules authorise or permit the suspension of the exercise of the constitutional jurisdiction of the Court of Appeal and the Supreme Court for a continuous period of two months, they are inconsistent with the Constitution and cannot be sustained under Article 1(2) of the Constitution.

**b. LEGAL VACATION VIOLATES THE CONSTITUTIONAL
RIGHT TO A FAIR HEARING WITHIN A REASONABLE TIME**

6.8 My Lords, Article 19(1) of the Constitution of the Republic of Ghana, 1992, guarantees every person charged with a criminal offence, and by necessary constitutional implication every litigant entitled to due process of law, the right to a fair hearing within a reasonable time by a court established by law.

The guarantee of a hearing within a reasonable time is a fundamental component of the administration of justice and the rule of law.

6.9 The Plaintiff respectfully submits that the constitutional obligation to ensure a hearing within a reasonable time extends beyond the conduct of litigants and their legal representatives. It equally imposes a positive constitutional duty upon the State and the Judiciary to organise, administer and regulate the judicial system in a manner that enables the timely hearing and determination of cases.

6.10 The Plaintiff contends that the complete suspension of the sittings of the Court of Appeal and the Supreme Court during the annual legal vacation inevitably delays the hearing and determination of appeals, constitutional actions, applications for stay of execution, interlocutory applications, judicial review proceedings, and other matters pending before these Courts.

6.11 A litigant whose appeal or constitutional action is ripe for hearing immediately before the commencement of legal vacation is, by reason only of the impugned Rules and the administrative practice implemented pursuant thereto, compelled to wait for approximately two months before the matter can be heard. Such delay is not occasioned by the conduct of the litigant or any procedural default but arises solely because the Court suspends sitting.

6.12 The Plaintiff relies on the decision of **Jonas Kpakpo Allotey v. The Republic (2013) JELR 68617 (CA)**, where the Court reaffirmed the constitutional importance of the right to a fair hearing within a reasonable time under Article 19 of the Constitution. The Plaintiff respectfully submits that the constitutional guarantee of a hearing within a reasonable time is not merely directed at the conduct of litigants but equally imposes an institutional

obligation upon the State and the Judiciary to organise the administration of justice in a manner that avoids unnecessary or systemic delay.

6.13 The Plaintiff respectfully submits that a constitutional guarantee of a hearing within a reasonable time cannot be rendered dependent upon the administrative calendar of the Courts. Constitutional rights are continuous in nature and remain enforceable throughout the legal year. Administrative convenience cannot override constitutional guarantees.

6.14 The Plaintiff further contends that although judicial officers are entitled to reasonable periods of leave and rest, the Constitution does not authorise the complete suspension of the constitutional functions of the Court of Appeal and the Supreme Court for an extended period where such suspension substantially impairs the constitutional rights of litigants.

6.15 My Lords, the impugned practice disproportionately affects litigants in constitutional, civil, criminal, electoral, commercial, chieftaincy, human rights, and public interest matters, many of which involve questions requiring urgent judicial intervention or the protection of constitutional rights. The inability of the Court of Appeal and the Supreme Court to sit during legal vacation may therefore occasion serious prejudice, irreparable harm, or the frustration of the constitutional right of appeal.

6.16 The Plaintiff further submits that the constitutional right to a fair hearing within a reasonable time necessarily requires that the institutional arrangements governing the administration of justice facilitate, rather than impede, the timely determination of disputes. Any subsidiary legislation or administrative practice which substantially delays access to the appellate

courts is inconsistent with the spirit and letter of Article 19(1) of the Constitution.

6.17 The Plaintiff respectfully submits that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), and the administrative practice implemented pursuant thereto, in so far as they authorise or permit the complete suspension of the sittings of the Court of Appeal and the Supreme Court for a continuous period of approximately two months, unjustifiably infringe Article 19(1) of the Constitution and cannot be sustained under the constitutional order established by the 1992 Constitution.

6.18 The Plaintiff therefore respectfully invites this Honourable Court to declare that the impugned provisions and the administrative practice implemented pursuant thereto are unconstitutional, null, void and of no effect to the extent that they result in the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation, thereby denying litigants their constitutional right to a fair hearing within a reasonable time.

c. THE PRACTICE OF LEGAL VACATION VIOLATES ARTICLE 23 OF THE CONSTITUTION BY DENYING ADMINISTRATIVE JUSTICE

6.19 My Lords, Article 23 of the Constitution provides that "administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law." The constitutional provision embodies the principle that every exercise of administrative power must be fair, reasonable, proportionate, and consistent with the Constitution.

6.20 The Plaintiff respectfully submits that the organisation of the judicial calendar, the scheduling of court sittings, and the implementation of legal vacation are administrative functions undertaken in the management and administration of the Judiciary. Although the adjudication of disputes is a judicial function, the determination of when and how the Courts sit is an administrative matter subject to the constitutional requirements of Article 23.

6.21 The Plaintiff contends that the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation constitutes an administrative arrangement which directly affects the ability of litigants to access the appellate courts and obtain the timely determination of their cases.

6.22 The Plaintiff says that litigants whose appeals, constitutional actions, applications or other proceedings are ready for hearing immediately before the commencement of legal vacation are denied access to the appellate courts for a continuous period of approximately two months solely because of an administrative arrangement, irrespective of the urgency, significance or nature of their cases.

6.23 While the Plaintiff readily acknowledges that the efficient management of judicial resources and the welfare of judicial officers are legitimate administrative objectives, Article 23 requires that those objectives be pursued fairly, reasonably and proportionately, and in a manner that least impairs constitutional rights and access to justice.

6.24 The Plaintiff further submits that less restrictive and constitutionally compliant alternatives are reasonably available, including: rotational vacation sittings, staggered judicial leave, specially constituted vacation panels, or other administrative arrangements capable of ensuring the uninterrupted

discharge of the constitutional jurisdiction of the Court of Appeal and the Supreme Court while preserving the entitlement of judicial officers to annual leave.

6.25 The existence of such reasonable alternatives demonstrates that the complete suspension of appellate sittings during legal vacations is neither necessary nor proportionate to achieving the legitimate objective of judicial vacation. It therefore falls short of the constitutional standard of fairness and reasonableness required by Article 23.

6.26 In **Awuni v. West African Examinations Council [2003–2004] SCGLR 471**, this Honourable Court held that Article 23 imposes a constitutional obligation upon administrative bodies and officials to act fairly, reasonably and in accordance with the requirements of law. The Court emphasised that administrative action must be free from arbitrariness, caprice and unreasonableness, and must accord with the principles of natural justice.

6.27 The Plaintiff respectfully submits that the administrative implementation of legal vacation by the Judiciary is equally subject to Article 23 of the Constitution. Accordingly, an administrative practice that results in the complete suspension of the sittings of the Court of Appeal and the Supreme Court for approximately two months each year, thereby delaying access to justice and the determination of pending proceedings, cannot satisfy the constitutional requirements of fairness and reasonableness.

6.28 My Lords, Article 23 demands more than administrative convenience. It requires that the administration of public institutions, including the Judiciary, be organized in a manner that advances rather than frustrates constitutional rights. An administrative arrangement that effectively suspends access to the

Republic's two highest appellate courts for a prolonged period each year is incompatible with that constitutional standard.

6.29 The Plaintiff therefore respectfully submits that the practice of legal vacation, as presently implemented pursuant to Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), is inconsistent with Article 23 of the Constitution and is consequently unconstitutional to the extent that it authorises or permits the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation.

d. THE PRACTICE OF LEGAL VACATION VIOLATES ARTICLE 33 OF THE CONSTITUTION BY IMPAIRING THE EFFECTIVE ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS AND THE CONSTITUTIONAL RIGHT OF APPEAL

6.30 My Lords, Article 33 of the Constitution guarantees effective judicial protection for the enforcement of fundamental human rights and, under its appellate provisions, secures the constitutional right of a person aggrieved by the determination of the High Court to appeal to the Court of Appeal, with a further right of appeal to the Supreme Court. These constitutional guarantees are intended to ensure that judicial remedies are practical, effective and available without unjustifiable institutional impediments.

6.31 The Plaintiff respectfully submits that the constitutional rights guaranteed by Article 33 are not merely procedural in nature but substantive constitutional guarantees intended to secure meaningful and effective access to justice. A constitutional right of appeal or access to constitutional remedies is rendered illusory if the appellate courts suspend sitting for a continuous period of two months each year.

6.32 The Plaintiff contends that the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation substantially impairs the practical enjoyment of the constitutional right of appeal and delays the determination of constitutional applications and other proceedings brought for the protection and enforcement of fundamental rights.

6.33 My Lords, constitutional rights must be practical and effective rather than theoretical or illusory. Accordingly, administrative arrangements or subsidiary legislation which substantially impede access to the appellate courts or delay the determination of constitutional proceedings are inconsistent with the guarantees embodied in Article 33 of the Constitution.

6.34 The Plaintiff therefore respectfully submits that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), and the administrative practice implemented pursuant thereto unjustifiably impair the constitutional guarantees contained in Article 33 and are unconstitutional to the extent of their inconsistency with the Constitution.

**e. THE PRACTICE OF LEGAL VACATION CONSTITUTES AN
ARBITRARY EXERCISE OF DISCRETIONARY POWER
CONTRARY TO ARTICLE 296 OF THE CONSTITUTION**

6.35 My Lords, Article 296 of the Constitution provides that where a person or authority is vested with discretionary power, that discretion shall be exercised fairly and candidly, shall not be arbitrary, capricious or bias either by resentment, prejudice or personal dislike, and shall be exercised in accordance with due process of law.

6.36 The Plaintiff respectfully submits that the power to regulate the judicial calendar, prescribe periods of legal vacation, constitute vacation panels, and determine whether the Court of Appeal and the Supreme Court shall sit during legal vacation is an administrative discretion exercised pursuant to the Constitution and the Rules of Court. As such, the exercise of that discretion is subject to the constitutional safeguards prescribed by Article 296.

6.37 My Lords, the impugned Rules were made by the Rules of Court Committee pursuant to Article 157 of the Constitution. Although Article 157 confers upon the Rules of Court Committee the constitutional authority to make rules regulating the practice and procedure of the Superior Courts of Judicature, that authority is not absolute and must thus be exercised consistently with the Constitution and within the limits imposed by it.

6.38 The Plaintiff respectfully submits that the rule-making power conferred by Article 157 is a constitutional discretionary power and is therefore subject to Article 296 of the Constitution. Consequently, the Rules of Court Committee is under a constitutional duty to exercise that power fairly, reasonably, transparently and in accordance with due process of law. It follows that any rule made pursuant to Article 157 which arbitrarily or disproportionately impairs constitutional rights or substantially hinders the exercise of the constitutional jurisdiction of the Superior Courts is liable to be declared unconstitutional.

6.39 The Plaintiff contends that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), and Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), in so far as they authorise or permit the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation, exceed the

constitutional limits of the discretionary rule-making power conferred by Article 157 and are inconsistent with Articles 19(1), 23, 33, 125, and 296 of the Constitution.

6.40 The Plaintiff contends that the decision to suspend the sittings of the Court of Appeal and the Supreme Court for a continuous period of approximately two months each year constitutes an exercise of discretionary administrative power which directly affects the constitutional rights and legitimate expectations of litigants seeking access to the appellate courts.

6.41 The Plaintiff contends that the decision to suspend the sittings of the Court of Appeal and the Supreme Court for a continuous period of approximately two months each year constitutes an exercise of discretionary administrative power which directly affects the constitutional rights and legitimate expectations of litigants seeking access to the appellate courts.

6.42 The Plaintiff further submits that the impugned practice is not supported by any published constitutional or objective criteria demonstrating why all appeals, constitutional actions, applications and other proceedings should cease to be heard throughout the period of legal vacation, irrespective of their urgency, public importance or the prejudice likely to be occasioned by delay.

6.43 In the absence of transparent and objective standards governing the exercise of this discretion, the complete suspension of appellate sittings becomes arbitrary and disproportionate. A discretion affecting constitutional rights cannot lawfully be exercised merely for administrative convenience where less restrictive and constitutionally compliant alternatives are readily available.

6.44 The Plaintiff readily acknowledges that the Judiciary is entitled to organise its calendar and to make appropriate arrangements for the leave and welfare of judicial officers. However, Article 296 requires that such discretionary powers be exercised in a manner that promotes, rather than impairs, the administration of justice and the enjoyment of constitutional rights.

6.45 The Plaintiff therefore respectfully submits that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), and the administrative practice implemented pursuant thereto constitute an arbitrary and disproportionate exercise of discretionary power contrary to Articles 157 and 296 of the Constitution and are accordingly unconstitutional, null and void to the extent that they authorise or permit the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation.

6.46 The Plaintiff further relies on the celebrated dictum of Lord Denning in **Macfoy v. United Africa Co. Ltd.** [1961] 3 All E.R. 1169 at 1172, where His Lordship stated:

"If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there; it will collapse."

6.47 The Plaintiff respectfully submits that Article 1(2) of the Constitution unequivocally provides that any enactment or rule of law found to be inconsistent with a provision of the Constitution shall, to the extent of the inconsistency, be void. Consequently, if this Honourable Court finds that Rule

61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), or the administrative practice implemented pursuant thereto are inconsistent with the Constitution, then those provisions cannot be permitted to remain operative. They become void to the extent of their inconsistency, and any administrative practice founded exclusively upon them cannot be sustained.

6.48 The Plaintiff further relies on **Tuffuor v. Attorney-General [1980] GLR 637**, where the Supreme Court emphasized the supremacy of the Constitution and held that:

"No person can make lawful what the Constitution says is unlawful. No person can make unlawful what the Constitution says is lawful. The conduct must conform to due process of law as laid down in the fundamental law of the land or it is unlawful and invalid."

6.49 The Plaintiff respectfully submits that the institutional circumstances which may historically have justified the complete suspension of sittings during legal vacation have materially changed. The Judiciary has, over the years, experienced a significant increase in the number of Justices of the Superior Courts of Judicature, together with corresponding improvements in judicial administration and institutional capacity.

6.50 The Plaintiff contends that, unlike earlier periods when the number of Justices of the Superior Courts was comparatively limited, the present composition of the Judiciary is sufficiently robust to permit the adoption of constitutionally compliant administrative arrangements that ensure the continuous hearing and determination of cases while preserving the entitlement of judicial officers to annual leave.

6.51 My Lords, the increased complement of Justices of the Supreme Court and the Court of Appeal makes it both practicable and reasonable to constitute vacation panels, implement rotational sittings, stagger judicial leave, or adopt other administrative measures that would enable the uninterrupted exercise of the constitutional jurisdiction of those Courts throughout the legal year.

6.52 The Plaintiff respectfully submits that the constitutional rule-making powers vested in the Rules of Court Committee and the administrative powers exercised by the Chief Justice and the Judicial Service must conform to the Constitution. Accordingly, where subsidiary legislation or an administrative practice authorises or results in the complete suspension of the constitutional functions of the Court of Appeal and the Supreme Court in a manner inconsistent with Articles 19(1), 23, 125(3) and 296 of the Constitution, this Honourable Court is constitutionally bound, pursuant to Articles 1(2), 2(1) and 130(1), to declare such provisions and practices void to the extent of their inconsistency.

7 CONCLUSION

7.1 My Lords, the Plaintiff respectfully submits that this action is not directed against the entitlement of judicial officers to annual leave or legal vacation. Rather, it is a constitutional challenge to the complete suspension of the sittings of the Court of Appeal and the Supreme Court during legal vacation and the consequent suspension of the hearing and determination of appeals, constitutional actions, and other proceedings before those Courts.

7.2 The Plaintiff further submits that while the efficient administration of the Judiciary and the welfare of judicial officers are legitimate constitutional objectives, such objectives must be pursued in a manner that is consistent with the Constitution and does not unjustifiably impair the constitutional rights of litigants or undermine the constitutional obligation of the Judiciary to administer justice fairly, expeditiously, and within a reasonable time.

7.3 It is the respectful submission of the Plaintiff that Rule 61(b) of the Court of Appeal Rules, 1997 (C.I. 19), Rule 82 (Vacation) of the Supreme Court Rules, 1996 (C.I. 16), and the administrative practice implemented pursuant thereto, in so far as they authorise or permit the complete suspension of the sittings of the Court of Appeal and the Supreme Court for a continuous period of approximately two months, are inconsistent with and in contravention of Articles 1(2), 12(1), 19(1), 23, 125(3), 157 and 296 of the Constitution of the Republic of Ghana, 1992.

7.4 The Plaintiff respectfully submits that the impugned Rules, being subsidiary legislation made pursuant to Article 157 of the Constitution, cannot lawfully authorise an administrative practice that substantially impedes the exercise of the constitutional jurisdiction vested in the Court of Appeal and the Supreme Court or unjustifiably restrict access to justice and the timely determination of proceedings.

7.5 The Plaintiff therefore respectfully invites this Honourable Court, pursuant to Articles 1(2), 2(1) and 130(1) of the Constitution, to declare that the impugned provisions and the administrative practice implemented pursuant thereto are unconstitutional, null, void and of no effect to the extent of their inconsistency with the Constitution.

7.6 The Plaintiff further prays this Honourable Court to grant the declarations, mandatory orders and consequential reliefs sought, including such directions as may be necessary to ensure that the Court of Appeal and the Supreme Court continue to discharge their constitutional mandate throughout the legal year through constitutionally compliant arrangements, including rotational sittings, vacation panels, staggered judicial leave, or such other administrative measures as this Honourable Court may consider just and appropriate.

7.7 My Lords, the Constitution establishes the Judiciary as an enduring institution for the administration of justice and the protection of constitutional rights. The supremacy of the Constitution requires that all subsidiary legislation and administrative practices conform to its commands. Accordingly, no Rule of Court or administrative arrangement, however longstanding, may operate to impede the effective exercise of the constitutional jurisdiction of the Superior Courts or diminish the constitutional guarantees of fair hearing, access to justice and administrative justice.

7.8 The Plaintiff therefore respectfully invites this Honourable Court to uphold the supremacy of the Constitution, reaffirm the constitutional duty of the Judiciary to administer justice in a manner consistent with the guarantees of the Constitution, and grant all the reliefs endorsed on the Plaintiff's Writ.

My Lords, I conclude this Statement of Case with the timeless maxim: ***Fiat Justitia Ruat Caelum***" - Let justice be done though the heavens fall."

The Plaintiff respectfully submits that the Constitution is the supreme law of the Republic. Where any rule of court or administrative practice is found to be inconsistent with its guarantees of fair hearing, access to justice, and the rule of law, this Honourable Court is under a solemn constitutional duty to uphold the supremacy of the Constitution without fear or favour. The Plaintiff therefore

respectfully prays this Honourable Court to grant the reliefs sought and, in so doing, reaffirm that constitutional justice must prevail above all administrative convenience. *Fiat Justitia Ruat Caelum.*

DATED AT ACCRA, THIS 28TH DAY OF JULY 2026



.....
ELORM KWAMI GORNI
PLAINTIFF

THE REGISTRAR
SUPREME COURT
ACCRA

AND FOR SERVICE ON:

- 1. THE ATTORNEY GENERAL, ATTORNEY GENERAL'S
DEPARTMENT, MINISTRIES, ACCRA**
- 2. THE CHIEF JUSTICE, JUDICIAL SERVICE OF GHANA,
ACCRA.**

LIST OF AUTHORITIES

CONSTITUTION

1. Constitution of the Republic of Ghana, 1992

STATUTES

2. State Proceedings Act, 1998, (Act 555)

SUBSIDIARY LEGISLATIONS

3. Court of Appeal Rules, 1997 (C.I. 19)
4. Supreme Court Rules, 1996 (C.I. 16)
5. Supreme Court (Amendment) Rules, 1999 (C.I. 24)

CASES

6. Adumoa Twum II vs Adu Twum II [2000] SCGLR 165
7. Awuni vs West African Examination Council [2003-2004] SCGLR 471
8. Luke Mensah of Sunyani vs. Attorney-General [2003-2004] SCGLR 122
9. Jonas Kpakpo Allotey v. The Republic (2013) JELR 68617 (CA)
10. Macfoy vs United Africa Co Ltd [1961] 3 All ER 1169 (PC)
11. National Democratic Congress vs Electoral Commission [2001-2002]
12. Sam (No 2) vs Attorney-General [2000] SCGLR 305
13. Tuffour vs Attorney-General [1980] GLR 637 (SC)