



**Sup Ct. Case No. 2/2018**

**IN THE SUPREME COURT OF SIERRA LEONE**

IN THE MATTER OF THE CONSTITUTION OF SIERRA LEONE 1991 – ACT NO. 6 OF 1991 (AS AMENDED) SECTIONS, 41, 75 & 76

IN THE MATTER OF THE SIERRA LEONE CITIZENSHIP ACT, 1973 – ACT NO. 4 OF 1973

IN THE MATTER OF THE SIERRA LEONE CITIZENSHIP (AMENDMENT) ACT, 1973 – ACT NO. 13 OF 1973

IN THE MATTER OF THE SIERRA LEONE CITIZENSHIP (AMENDMENT) ACT, 2006 – ACT NO 11 OF 2006

IN THE MATTER OF AN ACTION PURSUANT TO THE SUPREME COURT RULES, 1982 – PART XVI RULES 89 - 98, S.I. NO 1 OF 1982

BETWEEN:

DAVID FORNAH

- PLAINTIFF

AND

1. ALHAJI DR. KANDEH KOLLEH YUMKELLA - DEFENDANTS
2. THE ATTORNEY-GENERAL & MINISTER OF JUSTICE
3. MOHAMED N'FAH ALIE CONTEH
4. NATIONAL ELECTORAL COMMISSION (NEC)
5. DR. DENNIS AYODELE BRIGHT
6. FRANCIS HINDOWA
7. NATIONAL GRAND COALITION

CORAM:

THE HONOURABLE MR. JUSTICE N.C. BROWNE-MARKE  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MR. JUSTICE E.E. ROBERTS  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MS JUSTICE G. THOMPSON  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MR. JUSTICE A.S. SESAY  
JUSTICE OF THE SUPREME COURT

THE HONOURABLE MR. JUSTICE SENGU KOROMA  
JUSTICE OF THE SUPREME COURT

COUNSEL:

CENTUS MACAULEY ESQ FOR THE PLAINTIFF  
DR. A. O. CONTEH, F.M. DABOR ESQ, & MS. YASMIN JUSU-SHERIFF  
FOR THE 1<sup>ST</sup> DEFENDANT

OSMAN KANU ESQ, ABIGAIL SUWU (MS) & P. FEWEY (MS) FOR THE 2<sup>ND</sup>  
DEFENDANT

MS B.E.T CUMMINGS, DRUCIL E. TAYLOR ESQ & J.E. KAPUWA ESQ FOR THE 3<sup>RD</sup>  
AND 4<sup>TH</sup> DEFENDANTS

I.S. YILLAH ESQ & M.S BANGURA ESQ FOR THE 5<sup>TH</sup> DEFENDANT

S.B. TEJAN-SIE II ESQ FOR THE 6<sup>TH</sup> DEFENDANT

MS YASMIN JUSU-SHERIFF, ALEX MUSA ESQ & ALHAJI M. KAMARA ESQ FOR THE  
7<sup>TH</sup> DEFENDANT

JUDGMENT DELIVERED BY THE HON. MR. JUSTICE SENGU .M. KOROMA  
JSC ON THE 3<sup>RD</sup> DAY OF SEPTEMBER, 2021.

1. My Lords, I have had the privilege of reading the judgment of my Learned brother, Hon. Mr. Justice N.C. Browne-Marke, JSC and would adopt his summary of facts in this case. I also agree with his orders as to costs. Having said this, I shall now proceed to opine on law as it is
2. I shall start by expressing my views on an important question on which Browne-Marke and Thompson JJSC hold different but well researched and refreshing views. The question relates to whether there is an apparent conflict between Section 126 of the Constitution of Sierra Leone, 1991, Act No. 6 of 1991 and Section 47 (3) of the Public Elections Act, 2012.
3. In order to determine the question of whether a conflict exists or not, I shall, first of all set out the said provisions in extenso: -
4. Section 126 of the Constitution provides as follows: -

"A single Justice of the Supreme Court acting in its Criminal Jurisdiction, and three Justice of the Supreme Court acting in its Civil Jurisdiction may exercise any power vested in the Supreme Court not involving a decision in a cause or matter before the Supreme Court save that:

  - (a) In Criminal matters, if any such Justices refuses or grants an application in the exercise of any such power, any person affected thereby shall be entitled to have the application determined by the Supreme Court Constituted by three justices thereof; and
  - (b) In Civil matters, any Order, direction or decision made or given in pursuance of the powers conferred by this Section may be varied, discharged or reversed by the Supreme Court constituted by five justices thereof.
5. The side notes to this provision clearly states that it relates to the powers of the Supreme Court in interlocutory matters.
6. Sections 47(3) of the Public Elections Act, 2012 provides as follows: -

"An objection against the nomination of a Presidential Candidate shall be heard by the Supreme Court made up of three Justices whose decision shall be given within thirty days of the lodging of the objection".

7. A proper construction of the two provisions would reveal that there is no conflict. The objection to a candidate to participate in a Presidential Elections, to my mind, could be equated to an interlocutory process. After the nomination, there would still be the Presidential Elections, which is the end process. It is only when there is a challenge to the results of a Presidential Elections that the Supreme Court shall be called upon to determine its validity. Section 55 of the Public Elections Act, 2012, No. 4 of 2012 is clear on this point.

Section 55(1). "A person who is a Citizen of Sierra Leone and has lawfully voted in a Presidential Election (may) challenge the validity of that election by petition to the Supreme Court within 7 days after the declaration of the result of a Presidential Election under Sub-section (2) of Section 52".

8. It should be noted here that no reference is made to the number of Supreme Court Judges, which would invariably lead to the conclusion that it must be a full panel of the Court.

9. Section 47(3) does not clearly state that the decision of the panel of three is not subject to an appeal to a panel of five as provided for in Section 126 of the Constitution. Had Parliament intended that decision to be final, it would have said so. I say this because in Section 145(1) of the said Act, which deals with Parliamentary Elections Petitions, it is explicitly provided that:

"An appeal shall lie to the Court of Appeal from the determination of the High Court upon an election petition... and the decision of the Court of Appeal shall be final to all intents and purposes".

10. There is no such specificity in Section 47(3).

11. Reading Section 47(3) of Act. No 4 of 2012, Section 43(4) of same and Section 126 of the Constitution together, it is my opinion that any disqualification of any candidate under the former shall be subject to an appeal to the full panel of the Supreme Court. It is important to take into consideration that Section 47 (4) only referred to the "Supreme Court" without mentioning the required quorum.

12. Based on my opinion proffered in the foregoing paragraphs, I hold that Section 47(3) of the Public Elections Act, 2012 does not contravene Section 126 of the Constitution of Sierra Leone, 1991, Act no. 6 of 1991 but rather complements it. In any event, even if it does contradict it, the Constitutional provision would take precedence.

### **THE ISSUE**

13. The Plaintiff in this matter unconditionally withdrew his action against all of the Defendants before the hearing. This means that all the relief sought against the Defendants ceased to exist and so this Court lacks jurisdiction to determine them in the manner in which they were raised

14. However, the application for discontinuance was made after all the parties here filed their respective statements of case. This gives this court a treasure trove of legal submissions and authorities to assist it in answering the questions asked.

15. After arguments regarding the withdrawal, Counsel for 7<sup>th</sup> Defendant, Yasmin Jusu-Sheriff asked this Court to determine the declaration prayed for in paragraph H of the Originating Notice of Motion of the Plaintiff dated the 5<sup>th</sup> day of February, 2018 to wit:

"That by virtue of Section 11 of the Sierra Leone Citizenship No. 4 of 1973 (as amended), and before the coming into effect of the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006, any person who upon attaining the age of twenty-two years being a Citizen of Sierra Leone and also a Citizen of another Country by operation of law ceased to be a citizen of Sierra Leone".

In her view, which I uphold, the said prayer is of such constitutional and public interest significance that it should be clarified by the Supreme Court.

16. In the statement of the Plaintiff's case, Counsel for the Plaintiff at paragraph 111(a) refers to Section 10 of the Sierra Leone Citizenship Act, No. 4 of 1973 (as amended) and the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006. For ease of reference, I shall reproduce these provisions: -
17. Section 11 of the Sierra Leone Citizenship Act, 1973 provides as follows:

"Any person who, upon attaining the age of twenty-one years, is a citizen of Sierra Leone and the citizen of another Country shall cease to be a citizen of Sierra Leone upon attaining the age of twenty-one years (or in the case of a person of unsound mind, at such later date as may be prescribed) unless he has complied with paragraph (a), (b) and (c) of Section 9.
18. Section 10 of the Sierra Leone Citizenship Act, 1973 provides as follows:

"No person shall have Sierra Leone Citizenship and any other citizenship at one and the same time".
19. Sierra Leone Citizenship Act, No. 13 of 1976, Section 9 deals with the conditions precedent to the grant of certificate of citizenship by naturalization.
20. In his submission, Mr. Centus Macauley, Counsel for the Plaintiff argues that Sections 10 and 11 of the Sierra Leone Citizenship Act, No. 4 of 1973 Act (as amended) are mandatory, clear and emphatic terms, more specifically with the use of the term "shall" in Section 10 and the words "that on the taking the citizenship shall cease" in Section 11. He also submits that there are no lacunae concerning Section 10 and 11 of the 1973 Act. In consequence, dual citizenship was barred so much so that on the taking the citizenship of any other Country at one and the same time as that of the Sierra

Leone citizenship, you "shall cease" forthwith by operation of law without doing anything more from being a citizen of Sierra Leone.

21. Mr. Macauley submits further that pursuant to Sections 10 and 11 of the Sierra Leone Citizenship Act, No. 4 of 1973 and before 26<sup>th</sup> October, 2006, the 1<sup>st</sup> Defendant ceased to be a citizen of Sierra Leone and in consequence thereof lost his citizenship of Sierra Leone immediately he became a citizen of the United States and took the oath of allegiance to the said United States of America.
22. Mr. Macauley submits that the Sierra Leone Citizenship (Amendment) Act, No. 13 of 1976 is significant as regards the 1<sup>st</sup> Defendant as it deals, amongst others with the steps to be taken including the oath of allegiance to the State of Sierra Leone on reacquiring citizenship.
23. He argues that notwithstanding the provisions of Section 4 of the Sierra Leone Citizenship (Amendment) Act No. 11 of 2006, which side notes read "Repeal and replacement of Section 9 of Act No. 4 of 1973 (i.e. the principal legislation), Section 9 of Act No. 13 of 1976 is still good law as the 2006 Legislation sought to purportedly repeal and replace Section 9 of the principal legislation which had ceased to be the law by virtue of the Sierra Leone Citizenship (Amendment) Act, No. 13 of 1976 rather than Section 9 of Act No.13 of 1976.
24. Mr. Macauley further argues that by Statutory Instrument No. 3 of 2007 whose short title reads thus:  
"The Sierra Leone Citizenship Act, 2006 (Date of Commencement) Order, 2007 and in exercise of the powers conferred on him, the Minister of Internal Affairs ordered that the "Sierra Leone Citizenship (Amendment) Act, 2006 shall deem to come into operation on the 26<sup>th</sup> day of October, 2006" is not retrospective.
25. He argues further that the Sierra Leone Citizenship (Amendment) Act, Act no.11 of 2006 has not in any way repealed Sections 41, 75 and 76 of the Constitution of Sierra Leone. On the contrary, the qualifications specified in Sections 41, 75 and 76 still remain the eligibility criteria to be met by any person seeking to be elected a Member of Parliament and or President of Sierra Leone

notwithstanding that dual citizenship is now allowed under the said Act No. 11 of 2006.

26. He submits that there is no conflict between the two enactments as the provisions of the Constitution would always be the Supreme Law. In support of this proposition, he cited dictum of **CHARLES HAYFRON-BENJAMIN JSC** in the Ghanaian Case of **NEW PATRIOTIC PARTY-V-INSPECTOR-GENERAL OF POLICE (2001) AH RLR 138 (GH.SC 1993)** in the following words:
- "Where any law or action is in conflict with the letter and spirit of the Constitution, which is the fundamental law of the land, then to the extent of such conflict or inconsistency, that law is unconstitutional, void and unenforceable".
27. Mr. Macauley proffers that the Citizenship (Amendment) Act, No. 11 of 2006 did not automatically re-confer citizenship (with the insertion of a new Section 19A) on all those who had lost same by operation of law by virtue of Sections 10 and 11 of the Sierra Leone Citizenship (Amendment Act) No. 4 of 1973 (and before the coming into effect of the Sierra Leone Citizenship (Amendment) Act No. 11 of 2006 or had ceased to be citizens of Sierra Leone by any other manner as provided under the 1973 Act.
28. Counsel for the 1<sup>st</sup> Defendant, Dr. Abdulai O. Conteh in the statement of case, paragraph C under the rubric "Arguments and Submissions", submits that the Plaintiff by the Originating Notice of Motion is seeking to abuse the jurisdiction of this court in the guise of a Constitutional challenge.
29. Dr. Conteh proffers that the appropriate way to approach this Court in the circumstances of a case where a person seeks to object to the candidacy of a contestant for presidential Election, is expressly granted by Section 47 of the Public Elections Act, 2012. This should be done by way of a properly formulated objection (if any) to the candidacy of that candidate.
30. Dr. Conteh urges this Court to decline the invitation to interpret certain provisions of the Citizenship Acts, in particular Sections 10



and 11 of Act No. 4 of 1973. He argues that the Plaintiff expressly requests the court to state the effect in law "before the coming into effect of the Sierra Leone Citizenship (Amendment) Act, No. 10 of 2006. Such an invitation is manifestly an invitation to entertain an academic question.

31. He submits that the relevant legal and subsisting provisions on dual nationality are now clearly stated in Section 5 of the Citizenship (Amendment) Act, 2006. He admits that dual nationality by Sierra Leoneans is now permissible. Dr. Conteh argues that is not proper role of any Court, to pronounce on the effect of the law before coming into effect of an amending legislation. The proper role of a Court when appropriately seised, is to interpret and pronounce on the effect of subsisting legislation.

### **DECLARATION SOUGHT**

32. This Court has been asked to make a declaration that "By virtue of Section 11 of the Sierra Leone Citizenship Act No. 4 of 1973 (as amended) and before the coming into effect of the Sierra Leone Citizenship (Amendment) Act, No. 10 of 2006 any person who upon attaining the age of twenty two years being a citizen of Sierra Leone and also a citizen of another Country by operation of law ceases to be a citizen Sierra Leone".
33. The Plaintiff went further to seek a declaration "that in the light of the declarations © to (H) being granted, that the 1<sup>st</sup> Defendant is disqualified for election as a Member of Parliament of the Republic of Sierra Leone and thereby also disqualified from election as President of Sierra Leone.
34. I would comment that the declaration sought in Paragraph 4 of the Plaintiff's Statement of Case is purely academic and inconsistent with the interpretative powers of the Supreme Court. The Supreme Court is required to interpret an existing law and not the effect of a repealed provision in a statute. The Plaintiff is asking us to determine the citizenship status of the 1<sup>st</sup> Defendant between the enactment of

the Sierra Leone citizenship Act, No. 4 of 1973 (as amended) and the coming into effect of Act No 11 of 2006.

35. It is my view that this Court should not and must not do so. It is a principle in Constitutional interpretation that a statute after been repealed becomes ineffective. The repealing statute abolishes a repealed statute as if it had never been made by Parliament: except for saving clauses, each and every part of the statute is considered unconstitutional. Thus, the repeal of an Act of Parliament causes it to cease to be part of the corpus juris or body of law. As Bennion puts it in BENNION ON STATUTORY INTERPRETATION (5<sup>th</sup> edition) Section 85 pages 300 – 301: "The Judicial effect of repeal and expiry are identical. In each case, the flood light is switched-off".
36. This view has Judicial support in the persuasive English case of SURETEES-V-ELLISON (1829) 9b & c 752 where Lord Tenterton said, "When an act of parliament is repealed, it must be considered (except as to transactions passed and closed) as if it had never existed".
37. Tindall C.J. states the exception more widely in KAY-V-GOODWIN (1947) F.C.R.F.C. R 141 at 166 when he that "the effect of repealing a statute is to obliterate it as completely from the records of Parliament as if it had never been passed; and it must be considered as a law that never existed except for the purpose of those actions that were commenced, prosecuted and concluded whilst it was an existing law".
38. In the instant case, Section 10 of Act No.4 of 1973 was expressly repealed and replaced by Section 5 of Act No. 11 of 2006. It follows that the said provision should be treated, after the operative date of repeal, as if it was never enacted. I would therefore reject the argument of Counsel for the Plaintiff that pursuant to Sections 10 and 11 of the Citizenship Act No. 4 of 1973 and before the 26<sup>th</sup> day of October, 2006, the first Defendant ceased to be a Citizen of Sierra Leone immediately he became a citizen of the United States and took an oath of allegiance to the said United States. On the contrary, I hold that as soon as Act no 11 of 2006 was

enacted, the repealed Sections of Act, no 4 of 1973 ceased to have any legal effect. The 1<sup>st</sup> Defendant as a citizen by birth (as opposed to a citizen by naturalisation) was automatically entitled to benefit from the amendment save the limitations set out in Sections 41, 75 and 76 of the Constitution of Sierra Leone, Act no. 6 of 1991.

### **THE FUNDAMENTAL ISSUE**

39. The fundamental issue here is whether a person holding dual citizenship is qualified to be a Member of Parliament and thus be elected as President of the Republic of Sierra Leone.
40. The issue of Citizenship is not expressly provided for in the Constitution of Sierra Leone. The main reference to Citizenship is to be found in Section 173 which provides that:
- “The provisions of any Consequential Provisions Act made under this Constitution and any Act relating to Citizenship shall not be amended, repealed, re-enacted or replaced unless the Bill incorporating such amendments, repeal, re-enactment or replacement is supported at the final vote thereupon by the votes of not less than two-thirds of the members of Parliament”.
41. There is no evidence that the 2006 Act did not receive the necessary two-thirds votes of Members of Parliament and so the maxim ‘*Omnia praesumuntur rite et solemniter esse acta donec in contrarium*’ applies. This means all things are presumed to be rightly and duly performed unless the contrary is proved.
42. The Sierra Leone Citizenship Act, No. 11 of 2006 flows from Section 173 of the Constitution as is the Sierra Leone citizenship Act, 1973 (as amended) which continues to be valid law by virtue of Sections 176 and 177 of the Constitution (existing law and Application of existing law). It follows that the law relating to Citizenship in Sierra Leone is governed by the Citizenship Act, 1973 (as amended), the Sierra Leone Citizenship (Amendment) Act, 1976 and the Sierra Leone Citizenship Act, 2006. The 2006 Act repealed and replaced key provision in the 1973 Act but did not repeal and replace nor made any reference to the 1976 Act. This is

understandable as that Act relates only to citizenship by naturalisation.

43. In determining the key issue raised herein, the most relevant provision is Section 5 of the Sierra Leone Citizenship (Amendment) Act, 2006 which provides as follows:-

"Section 10 Of the Principal Act is repealed and replaced by the following Section: -

(10). A Citizen of Sierra Leone may hold a Citizenship of another Country in addition to his Citizenship of Sierra Leone".

44. This provision needs no interpretation. The words are clear and unambiguous and so must be applied according to its terms. As the authors of HALSBURY'S LAWS OF ENGLAND-STATUTES Vol. 44 (1) (Reissue) paragraph 1487 put it:-

"If there is nothing to modify, alter or qualify the language which a statute contains, the words and sentences must be construed in their ordinary and natural meaning".

44. Section 5 of Act No. 11 of 2006 has a straightforward and clear meaning with no contradictions. It means that contrary to Section 10 of the Sierra Leone citizenship Act, 1973 which provides that "No. person shall have sierra Leonean citizenship and any other Citizenship at one and the same time', a Sierra Leonean is now allowed to hold dual Citizenship.

45. Consistent with this construction, I hold that a person having Sierra Leonean Citizenship may now hold the Citizenship of any other Country. If that person is a citizen by birth, he or she shall enjoy all the rights of a citizen without dual nationality save in specified cases provided for in the Constitution of Sierra Leone, Act no. 6 of 1991.

42 The next question, which has attracted a lot of public interest and at times hostile debates, is whether a person holding dual citizenship by virtue of Section 5 of the Sierra Leone Citizenship Act, 2006 is qualified to be elected as a member of Parliament and President of Sierra Leone.

At the heart of this question are Sections 75(a) 76 (1) (a) and Section 41 of the Constitution of Sierra Leone, 1991 which provides as follows:

Section 75(a): Subject to the provisions of Section 76, any person who "is a citizen of Sierra Leone (otherwise than by naturalisation)

Shall be qualified for election as such a Member of Parliament"

Section 76 (a)

"No person shall be qualified for election as a member of parliament

(a) If he is a naturalised Citizen or is a citizen of a Country other than Sierra Leone having become such a citizen voluntarily or is under a declaration of allegiance to such a Country".

Section 41 of the Constitution provides that:

"No person shall be qualified for election as President unless he

- (a) is a citizen of Sierra Leone
- (b) is a member of a political party
- (c) has attained the age of 40 years
- (d) is rather qualified to be a member of parliament.

It is noteworthy that these provisions are clear and unambiguous. They do not require the mobilisation of any of the other canons of constitutional interpretation to determine their meanings. Before giving any interpretative answer to the questioned envisaged or asked, I shall reproduce the submissions of Counsel on it. I must state that both Counsel are agreed on the significant constitutional relevance of Sections 41, 75 and 76 of the Constitution of Sierra Leone, No.6 of 1991 in determining the eligibility criteria for contesting to become a Member of Parliament and President.

46. These provisions are connected to the extent that in order to be elected as President, a person must, amongst others be qualified to be a member of parliament. In the qualifications to be Member of Parliament, a person must not hold dual citizenship.

47. Counsel for the Plaintiff, Centus Macauley Esq. made the following submission on this issue:

"We submit further that there is no gainsaying this Act, Sierra Leone Citizenship (Amendments) Act. No. 11 of 2006) has in no way, manner or form amended Sections 41, 75 and 76 of the Constitution of Sierra Leone. On the contrary, the qualifications specified in Sections 41, 75 and 76 still remain the qualifications to be met by any person seeking to be elected to be a Member of Parliament and or President of the Republic of Sierra Leone notwithstanding that dual citizenship is now allowed under the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006. In other words, although dual citizenship is now allowed by virtue of the Sierra Leone Citizenship (Amendment) Act No. 11 of 2006, the qualification for seeking to be elected as a Member of parliament and President of Sierra Leone are not found in the said Act but rather, expressly provided for in Sections 41, 75 and 76 of the Constitution and the said qualifications remain the same".

48. Mr. Macauley clarified that "There is no conflict and even if there is, the provisions of the Constitution will still remain supreme.

49. Counsel for the 1<sup>st</sup> Defendant, Dr. Abdulai O. Conteh had this to say:

"It is readily conceded for the 1<sup>st</sup> Defendant that even with the possession of dual citizenship by Sierra Leoneans since 2006, the Constitutional inhibitions on the eligibility of those dual citizens for the purposes of election to Parliament and the Presidency still remains in place. Therefore, there is no conflict between the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006 (allowing Sierra Leoneans to hold dual Citizenship) and the relevant provisions of the Constitution limiting eligibility for the purposes of election to parliament and the Presidency to only Sierra Leoneans who do not hold or possess dual Citizenship.

50. Dr. Conteh submits further, "... the temporal focus of the ineligibility criteria stated in the Constitution in Sections 41(a), 75(a)

and 76(a) is on the present and continuing holder of dual citizenship”.

51. It could be discerned from the submissions of both Counsel that irrespective of the provisions of the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006, the criteria for Members of parliament and the President are to be found in Sections 41, 75 and 76(i) of the Constitution of Sierra Leone.
52. In other words, the 2006 Act did not in any way supplant the said Constitutional provisions. Even if that were the intention of Parliament, any such provision would be unconstitutional.
53. The concept of citizenship is deeply rooted in the principle of allegiance. It could be traced to the Bible, particularly Mathew 6 verse 23 where it is stated, “No man can serve two masters; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon”.
54. As Counsel for the 1<sup>st</sup> Defendant explains, “In a representative democracy, it is readily submitted on behalf of the 1<sup>st</sup> Defendant that it is important that the holders of the highest offices in the Country should not possess or have dual or split allegiance stemming from the possession of dual citizenship. This requirement extends to public offices such as the highest office in the land (The Presidency), legislators (Parliament), and Ministers of Government. There should be only one locus of allegiance when it comes to these offices... it is inimical and greatly detrimental to the public interest for any Country to have its elected public officials or those holding Senior positions, to have dual citizenship for the reason that they may, at some critical stage of discharging their functions, be susceptible to the temptations of split loyalty that may be involved in holding dual citizenship”.
55. I agree entirely with Dr. Conteh on this point and would illustrate this by a scenario in which a President of Sierra Leone (who is the Commander-in-Chief of the Armed Forces) is a Sierra Leonean by birth and simultaneously holds citizenship of another country. In the event of an armed conflict between Sierra Leone and that other

war against the other country, it would amount to breach of allegiance to that state with all its legal implications. Conversely, if he gives any support to that other country, he will be in breach of allegiance to Sierra Leone

56. From the reasons given herein, I hold that irrespective of the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006, Sections 41, 75 and 76(1) (a) are the Constitutional Provisions containing eligibility criteria for the Members of parliament and the President of the Republic of Sierra Leone. That is the law as it is. For the avoidance of doubt, in order to qualify to contest for the office of President or Member of Parliament, you must, amongst others be a citizen by birth and must not hold the citizenship of any other country.
57. Having so held, I would clarify that this constitutional limitation could be cured by invoking Section 7 of the Sierra Leone Citizenship (Amendment) Act, No. 11 of 2006 which provides as follows:
- “The Principal Act is amended by insertion immediately after Section 19 of the following new Section: -
- 19A. When any Citizen of Sierra Leone, being of full age and capacity, has at any time.
- (a) Acquired the citizenship of any foreign Country: -
- (i) By birth; or
- (ii) any voluntary or formal act; or
- (b) Done any act or thing, the sole or primary purpose of which or the effect of which was or is to acquire the citizenship of a foreign Country,
- And that person ceased to be a Sierra Leonean by reason thereof; he may, if he so wishes resumes his Sierra Leonean Citizenship”.
58. On a true construction of this Section, as long as a person renounces his citizenship of the other Country before submitting himself as a candidate for Parliamentary or Presidential elections, he shall be to be qualified to do so. In other words, as soon as a person is no longer under allegiance to any other Country and is a citizen by



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birth (not by naturalisation or by registration) and fulfils all other requirements laid out in Sections 41, 75 and 76(i) (a) of the Constitution of Sierra Leone, 1991, Act no. 6 of 1991, he shall be qualified to be elected a member of Parliament; and thereby be eligible for election as President of Sierra Leone.

59. Finally, whilst I agree with my learned brothers on the granting of the declaration sought, for the avoidance of doubt, I would clarify that when a Sierra Leonean by birth who acquires the citizenship of another country renounces that citizenship, he automatically resumes his citizenship of Sierra Leone.



Hon. Mr. Justice Sengu Mohamed Koroma  
Justice of the Supreme Court.