

COURT'S FINAL JUDGEMENT ON THE PETITION FOR DECLARATORY JUDGEMENT

This case owes its genesis to a Petition for Declaratory Judgment filed by the Petitioner through his Legal Counsel in the Republic of Liberia, Counsellor Francis Y.S. Garlawolu, against the Respondent, on the 13th day of July, A.D. 2004, specifically requesting this court to grant and declare the following relief to said Petitioner:

1. To order Respondent to repatriate Petitioner in fulfillment of its obligation to its citizens within and without Liberia; and
2. To order the Respondent to defend and protect the diplomatic status of Petitioner.

When the case was called for hearing, the Respondent requested the indulgence of this Court to spread its resistance on the minutes of Court, which was granted.

Accordingly, Attorney Morris A. Kaba appearing for the Respondent, resisted the Petition on the minutes of Court, thus conceding veracity of the averment of the Petition to the effect that Petitioner is a citizen of Liberia and Consular assigned at Atlanta, U.S.A.

Arguments were held pro-et-con by Counsels for both parties. From the Petitioner's Petition and respondent's Resistance, two fundamental issues decisive of this case evolved for our determination, thus:

1. Whether or not our domestic and International Laws impose upon respondent the legal obligation to repatriate or seek the repatriation of Petitioner?
2. Whether or not respondent is under legal obligation to protect and defend its diplomats?

This Court shall proceed to dispose of the above issues in the reverse.

As regards the issue of diplomatic immunity, the record in this case establishes the fact that Petitioner, Dr. Malachi Z. York, was duly appointed by the Government of Liberia as a Consular on December 15, 1999. The letter of appointment reads thus:

"Republic of Liberia

OFFICE OF THE PRESIDENT

Dr. Malachi Z. York
Athens, Georgia
United States of America

I am pleased to appoint you hereby as Consul General of the Republic of Liberia to Atlanta, Georgia, United States of America

squarely falls under our domestic and International laws, within the category of diplomatic personnel with all immunities appertaining thereto.

This Court holds that the Constitution of Liberia and International laws and the Vienna Convention on Diplomatic Relations immune diplomatic personnel against arrest and detention, Chapter 9 of Republic International Law, 2nd Edition, Section 9-1 (Page-215) has this to say:

"DIPLOMATIC AND RELATED IMMUNITIES

Section 9.1, Function. The immunity of foreign diplomatic personnel from local actions or proceedings has long been a feature of the International legal system. Diplomatic immunity contributes to friendly relations among nations by promoting "The efficient performance of the functions of diplomatic missions as representing states..." Vienna Convention on Diplomatic Relations (hereinafter cited Convention), an essential condition for maintaining any sort of International community. In general and accredited diplomat is immune with respect to acts or omission in the exercise of his or her official functions and other circumstances in which lack of immunity would be inconsistent with diplomatic status. The diplomat is also immune from criminal process and from most civil process in the receiving state. See Section 464, RESTATEMENT (Third) (1987).

The person of a diplomatic officer is inviolable under international law and the receiving nation had an affirmative duty to protect each diplomat from an attack "on his person, freedom or dignity." Convention, Art 29, Consequently, the receiving national may neither arrest nor detain the diplomat, and the diplomat is immune from the criminal laws as well as the civil and administrative jurisdiction/convention, art 31(1). Diplomatic personnel may not be compelled to give evidence. Convention, Art, 3(2). They are also immune from personal service, Convention, art, 35, most taxes, convention, art 34, social security provisions, art, 33, and customs duties and inspections, convention, art, 36, Diplomatic immunity also extends to the diploma's family members. Convention, art, 37...the physical-premises of of a diplomatic mission are also inviolable. Convention, art, 22".

Also see Consular Convention Articles 41 & 43 and Section 465, restatment (Thin) (1987).

Further, the states has enacted the terms of the Vienna Convention on Diplomatic relations into federal Statutory Law, 22 U.S.C. Section 254 A-E (1982), which extends the privileges and immunities of the Convention to all diplomatic personnel regardless of whether the sending state is a convention party.

Thus, consistent with the principle of inviolability of diplomatic personnel, and the Petitioner being a Consular duly appointed by the Government of Liberia, is protected under the laws granted supra.

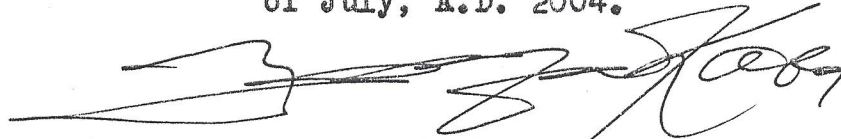
"States have Jurisdiction over their nationals, even when those nationals are physically outside the country's borders. This is so because the nationals owes allegiance to his own country no matter where he or she is located and because each nation has both responsibility to other nationals for the conduct of its nationals and an interest in their welfare while they are abroad."

In view of the above quoted law, it is the further holding of this Court that Petitioner is entitled, as a matter of law and right, to the protection of Respondent.

Respondent is therefore hereby ordered to repatriate Petitioner to the Republic of Liberia. Wherefore, it is the judgment of this Court that the Petitioner and the same is hereby granted and the Respondent is hereby ordered to give effect to this judgment. AND IT IS HEREBY SO ORDERED.

MATTER SUSPENDED.

Given under my hand and seal
of this Court this 21st day
of July, A.D. 2004.



Yusiff D. Kaba
ASSIGNED CIRCUIT JUDGE

SEAL OF COURT:

\$5.00 Revenue Stamp affixed hereto.

