

IN THE SUPERIOR COURT OF JUDICATURE

IN THE HIGH COURT OF JUSTICE

(HUMAN RIGHTS DIVISION)

ACCRA – A.D. 2025

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HIGH COURT, ACCRA

SUIT NO: HR 10132/2025

IN THE MATTER OF AN APPLICATION PURSUANT TO ARTICLE 33 OF THE
1992 CONSTITUTION AND ORDER 67 OF C.I. 47

DSO MARK KWAKU ASIEDU-ARTHUR
UNNUMBERED HOUSE
MADINA, ACCRA

APPLICANT

VRS.

1. THE ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL &
MINISTRY OF JUSTICE, ACCRA

2. THE OFFICE OF THE SPECIAL PROSECUTOR
6 HAILE SELASSIE AVENUE
SOUTH RIDGE, ACCRA

RESPONDENTS

MOTION ON NOTICE:

**APPLICATION FOR AN ORDER FOR ENFORCEMENT OF FUNDAMENTAL
HUMAN RIGHTS PURSUANT TO ARTICLE 33 OF THE 1992 CONSTITUTION
AND ORDER 67 OF C.I. 47**

PLEASE, TAKE NOTICE that this Court shall be moved by *Derrick Aboagye Asamoah, Esq.*, Counsel for and on behalf of the Applicant herein praying this Honourable Court for an order for enforcement of the applicant's fundamental human Rights as enshrined in the 1992 constitution of the Republic of Ghana upon the grounds set forth in the accompanying affidavit and for such further or other order (s) as this Court may deem fit or just.

1. The full name and address for service of the applicant and the Lawyer for the applicant

Applicant: DSO MARK KWAKU ASIEDU-ARTHUR
UNNUMBERED HOUSE
MADINA, ACCRA

Applicant's lawyer: DERRICK ABOAGYE ASAMOAH, ESQ,
(SOLICITOR FOR THE APPLICANT)
LARTEY, BADOMBIE & CO. LEGAL PRACTITIONERS
AND NOTARY PUBLIC, WINNERS CHAMBERS, H/NO.
D498/4, JONES NELSON AVENUE, NEAR ROXY CINEMA
AND BEHIND NCR, ADABRAKA, ACCRA
TEL: 0242267653

2. The facts upon which the applicant relies: (see attached Affidavit in support)

3. The reliefs or remedies sought by the applicant and the ground on which the applicant seeks the reliefs or remedies:

I. *A Declaration that the 2nd Respondent's withdrawal of the Applicant's appointment letter dated 31st July 2023, without a hearing, and based on previously disclosed information, is unfair, unreasonable, and in breach of Article 23 of the Constitution, 1992.*

II. *A Declaration that the 2nd Respondent's action in withdrawing the applicant's appointment letter dated 31st July 2023, without due process, amounts to a violation of his right to a fair hearing and right to administrative justice.*

III. *Payment of compensation to the Applicant for the infringement of the Applicant's fundamental human rights.*

IV. *An order to be reinstated or in alternative payment of compensation in a lump sum.*

V. *Cost occasioned by this action including legal fees per Ghana Bar Association (GBA) scale of fees.*

VI. *Any other orders the Honourable Court may deem fit or just.*

4. The full name and address for service of any person directly affected by the application:

1. THE ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL &
MINISTRY OF JUSTICE, ACCRA

2. THE OFFICE OF THE SPECIAL PROSECUTOR
6 HAILE SELASSIE AVENUE
SOUTH RIDGE, ACCRA

DAE TO BE FIXED
COURT TO BE MOVED ON the day of June 2025 at 9 o'clock in the forenoon or so soon thereafter as counsel for the Applicant may be heard.

DATED AT LARTEY, BADOMBIE & CO. LEGAL PRACTITIONERS AND NOTARY PUBLIC, WINNERS CHAMBERS, H/NO. D498/4 JONES NELSON AVENUE, NEAR ROXY CINEMA AND BEHIND NCR, ADABRAKA, ACCRA, THIS 23TH DAY OF JUNE 2025.

.....
DERRICK ABOAGYE ASAMOAH, ESQ,
(SOLICITOR FOR THE DEFENDANT/APPLICANT)
LICENCE NO. eGAR01895/25
CHAMBER REG. NO: CHM-00283/25
TIN NO. P00006863870
BP: 3000084513
TEL: 0242267653

THE REGISTRAR
HIGH COURT (HUMAN RIGHTS DIVISION)
ACCRA.

LARTEY, BADOMBIE & CO.
LEGAL PRACTITIONERS
WINNERS CHAMBERS
ADABRAKA-ACCRA

AND COPY FOR SERVICE ON THE ABOVE-NAME RESPONDENTS.

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
(HUMAN RIGHTS DIVISION)
ACCRA – A.D. 2025

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SUIT NO:.....

IN THE MATTER OF AN APPLICATION PURSUANT TO ARTICLE 33 OF THE
1992 CONSTITUTION AND ORDER 67 OF C.I. 47

DSO MARK KWAKU ASIEDU-ARTHUR
UNNUMBERED HOUSE
MADINA, ACCRA

APPLICANT

VRS.

1. THE ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL &
MINISTRY OF JUSTICE, ACCRA

2. THE OFFICE OF THE SPECIAL PROSECUTOR
6 HAILE SELASSIE AVENUE
SOUTH RIDGE, ACCRA

RESPONDENTS

AFFIDAVIT IN SUPPORT

I, DSO Mark Kwaku Asiedu-Arthur of unnumbered house, Gbestile, Accra in the Greater Accra Region, do hereby make oath and say as follows:

1. That I am the Applicant herein and deponent hereto.
2. That I depose to this affidavit the facts of which are within my personal knowledge, information and honest belief unless otherwise stated.
3. That at the hearing of this matter, my Counsel shall seek leave of the Court to cross-examine Mr. Kissi Agyebeng, Esq., the Special Prosecutor, Mr. Emmanuel Basintale Amadu, the Director of Investigations Division, Office of the Special Prosecutor and Ms. Boakyewaa Glover, the Director of Administration and Human Resource Management.
4. That I am an employee of the 2nd Respondent and was stationed at the Investigations Division (ID) as an Investigator.
5. That the 1st Respondent is the Chief Legal Adviser of the State and he is mandated by Article 88(5) of the constitution to institute all civil cases on behalf of the State; and all State institutions including the Office of the Special Prosecutor.
6. That the 2nd Respondent is a creature of statute, established under the Office of the Special Prosecutor Act, 2017 (Act 959), in the year 2018, with the mandate to investigate and prosecute offences of corruption and corruption-related offences in both the public and private sectors.
7. That in or about 2023, I applied for employment at the Office of the Special Prosecutor (OSP), was shortlisted, and subsequently invited for an interview.
8. That in my application documents, particularly my Curriculum Vitae (CV), I disclosed that my appointment was previously terminated from a prior place of employment, namely the National Intelligence Bureau (NIB).

That this prior termination of my appointment was fully discussed during the interview process, and the interview panel expressed satisfaction with my explanation.

10. That despite the disclosure, I was duly offered employment by the 2nd Respondent and was issued with an appointment letter dated the *31st day of July 2023*.
11. *That I have attached and marked as Exhibit "MKA1", a photocopy of the appointment letter evidencing the said deposition.*
12. That my appointment was subject to a 12-month probation, which I duly served without incident or misconduct.
13. That during my probation period, I was assigned to investigate matters relating to corruption and corruption-related offences involving the Scholarship Secretariat.
14. That during the course of this investigation, several suspects were arrested, cautioned statements were taken from them, and numerous pieces of evidence were retrieved by my team.
15. That at a point in the investigation, my team was preparing to arrest Mr. Kingsley Agyemang, the Chief Executive Officer of the Scholarship Secretariat, who is now the Member of Parliament for Akim Abuakwa South and a very close friend of the Special Prosecutor (Mr. Kissi Agyebeng, Esq.)
16. That owing to the imminence of the 2024 general elections and the fact that Mr. Kingsley Agyemang, of the Scholarship Secretariat, was a parliamentary candidate for the Abuakwa South Constituency, the Special Prosecutor, in or around October 2024, directed that the investigation involving the Scholarship Secretariat be discontinued so as not to prejudice his political ambitions."
17. That following the discontinuation of the said investigation, I began to face victimization and undue pressure within the Office.
18. That following the successful completion of my probation, I was confirmed as a staff member of the Office of the Special Prosecutor and was issued a confirmation letter dated *1st October 2024*.
19. That it was expressly stated in the said confirmation letter that my appointment was confirmed after satisfactory work and conduct during my probation as a Deputy Staff Officer (which is the equivalent in rank to Deputy Superintendent of Police) within the investigation division.
20. *That I have attached and marked as Exhibit "MKA2", a photocopy of the confirmation letter evidencing the said deposition.*
21. That throughout my employment with the 2nd Respondent, I served with diligence, commitment, and professionalism, and was never subjected to any disciplinary action or found guilty of misconduct.
22. That shortly after my confirmation, I was issued with a query dated the *14th day of March, 2025*, purported to have been necessitated by a petition received from one Comfort Oduraa, alleging that I was engaged in another employment and earning income without approval from the Special Prosecutor, and that I had an undisclosed name as Michael Ebbah.

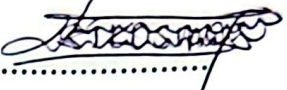
- . That I responded to the query and attached an identity card of Michael Ebbah, who is a Director of Falcom Bureau of Security, where I was also a Director before resigning to join the Office of the Special Prosecutor, and other documents to show that the person in question was not me.
24. That the Office invited Michael Ebbah to the office to assist them in clarification and also made verifications from the Ministry of the Interior, all of which confirmed that I was not the same Michael Ebbah as alleged in the complaint.
25. That in the first week of June 2025, the Special Prosecutor issued a directive that the investigation relating to corruption and corruption-related offences involving the Scholarship Secretariat be revisited, and that charges be preferred against the suspects who had already been arrested; however, no further arrests were to be made, including that of Honourable Kingsley Agyemang.
26. That I placed phone calls to the various suspects to report to⁴ the Office of the Special Prosecutor in order to obtain charged statements from them.
27. That a week after I placed the said phone calls to invite the suspects in the matter, I was issued with a letter of interdiction dated *Thursday, the 9th day of June 2025*.
28. That following the failure of the 2nd Respondent to establish any wrongdoing against me, I was nonetheless served with a letter of interdiction on *Thursday, the 9th day of June 2025*, stating that I was a subject of an ongoing investigation by the National Disciplinary Board of the OSP.
29. *That I have attached and marked as Exhibit "MKA3", a photocopy of the interdiction letter evidencing the said interdiction.*
30. That it was stated in paragraph 2 of the said interdiction letter that, considering the investigation, it is likely to lead to the imposition of a major penalty against me, and that the nature of my suspected breach renders it desirable that I should not remain on duty whiles the case is pending and I cannot be assigned other duties without causing harm to the interest of the office.
31. That it was stated in the said letter that the Special Prosecutor invoked the power vested in him by *Regulation 92(1) of the Office of the Special Prosecutor Regulation, 2018 (L.I. 2373)* to interdict me, effective immediately.
32. That during the period of my interdiction which lasted for less than one week, I was not invited to appear before the National Disciplinary Committee or any other Disciplinary Committee to be given a hearing in respect of the matter for which I was interdicted.
33. That on the *16th day of June 2025*, I was again served with a letter withdrawing my appointment from the Office of the Special Prosecutor.
34. *That I have attached and marked as Exhibit "MKA4", a photocopy of the withdrawal letter evidencing the said deposition.*
35. That the said letter of withdrawal referenced *Regulation 2(2)(b) of the Office of the Special Prosecutor Regulation, 2018 (L.I. 2373)*, which provides that a person is ineligible for recruitment into the Office if that person has been dismissed from a previous employment.

- . That the 2nd Respondent stated in the said letter that it had only become aware in 2025 that I had been previously dismissed from the NIB, and therefore, I was ineligible for recruitment into the Office.
37. *That I would like to state emphatically that my appointment with the National Investigation Bureau (NIB) was terminated on 24th August 2016, with a month salary in lieu of notice in line with paragraph seven (7) of my NIB appointment letter dated 2nd January 2016.*
38. *That I have attached and marked as Exhibit "MKA5" series photocopies of the aforementioned letter of appointment dated 2nd January 2016, and letter of termination dated 24th August 2016, evidencing the said deposition.*
39. That I find this position to be disingenuous, as the said dismissal had been fully disclosed by me and discussed with the 2nd Respondent during the recruitment process.
40. That having been aware of the facts at the point of recruitment, and having employed and confirmed me thereafter, the 2nd Respondent is estopped from relying on the same facts to justify the withdrawal of my appointment.
41. That I am advised by counsel and verily believe same to be true that, the doctrine of estoppel prevents a person or institution from acting inconsistently with their previous conduct or representations, especially where another person has relied on such conduct or representations to their detriment.
42. That I am advised by counsel and verily believe same to be true, that I had acquired a legitimate expectation of continued employment once the 2nd Respondent confirmed my appointment, particularly when no further conditions were attached to the confirmation.
43. That I was never invited to appear before any Disciplinary Committee or given the opportunity to be heard before the withdrawal of my appointment.
44. That I was not tried in accordance with any procedure prescribed under the OSP's internal regulations or under any known law.
45. That I am advised by Counsel and verily believe same to be true that the entire process leading to the withdrawal of my appointment was tainted with illegality, procedural unfairness, and bad faith.
46. That I am advised by counsel and verily believe same to be true that **Article 191 of the 1992 Constitution of Ghana** provides as follows:
- "A member of the public service shall not be:
(a) victimized or discriminated against for having discharged his duties faithfully in accordance with this Constitution; or
(b) dismissed or removed from office or reduced in rank or otherwise punished without just cause."*
47. That I have been advised by Counsel and verily believe same to be true that the withdrawal of my appointment based on a matter that was disclosed from the outset, and for which no disciplinary process was conducted, constitutes a *violation of Article 191* of the Constitution.

- . That the real reason for the withdrawal of my appointment is not the alleged non-disclosure, but rather victimization due to my role in investigating politically sensitive matters, particularly the Scholarship Secretariat case.
49. That I am advised by counsel and verily believe same to be true that *Article 23 of the Constitution guarantees every person the right to Administrative Justice and requires that all administrative bodies act fairly, reasonably, and in accordance with due process of law.*
50. That I am further advised by Counsel and verily believe same to be true that the 2nd Respondent's conduct in summarily withdrawing my appointment without a hearing or proper justification is contrary to *Article 23 of the 1992 Constitution* and the Rules of Natural Justice.
51. That I am further advised by Counsel and verily believe same to be true that *Article 296* of the Constitution provides that any discretionary power vested in an authority must be exercised *fairly, reasonably, and without arbitrariness, caprice, or bias*
52. That I have been advised by Counsel and verily believe same to be true that in the case of *Mensah v. Attorney-General [1996-97] SCGLR 320*, the Supreme Court emphasized the importance of fair administrative conduct and the protection of public servants from arbitrary decisions.
53. That the decision of the 2nd Respondent to rely on a known and previously accepted fact to now justify the withdrawal of my appointment is an abuse of discretion and a violation of my right.
54. That I am advised by Counsel and verily believe same to be true that a public institution cannot rely on its own inaction or oversight as a ground to deprive an individual of employment or protection under the law.
55. That I am advised by Counsel and verily believe same to be true that in *Adjetey Agbosu & Others v. Kotey & Others [2003-2004] SCGLR 420*, the Supreme Court affirmed the principle that a party who knowingly acts upon certain facts cannot later go back and act inconsistently to the detriment of another—this reinforces the applicability of **estoppel** in the present circumstances.
56. That the 2nd Respondent's actions have caused me severe emotional, professional, and financial hardship.
57. That looking at the conduct of the Special Prosecutor, it is clear that he has personal interest in the Scholarship Secretariat case and wants to victimize me for his personal interest.
58. That I make this application to seek redress from this Honourable Court for the violation of my fundamental rights under the 1992 Constitution and applicable administrative law principles.
59. That unless this Honourable Court intervenes, I shall continue to suffer grave injustice and irreparable damage to my professional reputation.
60. That I depose to this affidavit in support of my application for redress and pray the Honourable Court to grant the reliefs sought.

SWORN at Accra

this 26th day of July 2025


.....
(DEPONENT).


BEFORE ME

ABDULAI MOHAMMED
COMMISSIONER FOR OATHS

TEL: 0244052814

COMMISSIONER FOR OATHS