

Filed on 30/07/2020
at 10:00 AM
Registrar
IN THE SUPREME COURT OF GHANA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA- A.D. 2026

WRIT TO INVOKE ORIGINAL JURISDICTION

Between

THE NEW PATRIOTIC PARTY

Asylum Down,
Accra.
Plaintiff

Suit No.

Plaintiff

And

THE ATTORNEY-GENERAL

Office of the Attorney-General and
Ministry of Justice,
Accra

Defendant

IN THE NAME OF THE REPUBLIC OF GHANA you are hereby commanded within fourteen (14) days after the service on you of the statement of the Plaintiff's case inclusive of the day of service, that you are to file or cause to be filed for you a statement of the defendant's case in an action at the suit of:

1. **Nature of Reliefs sought is as follows:**

- (i) a declaration that upon a true and proper interpretation of articles 58(2) and 66(1), (2) and (3)(a) of the Constitution, "*two terms*" stipulated as the limit on the terms a person may hold office as President of Ghana refers to and means a maximum of two terms whether served by a person consecutively or non-consecutively;
- (ii) a declaration that upon a true and proper interpretation of articles 58(2) and 66(1), (2) and (3)(a) of the Constitution, a person shall not be elected more than two times to hold office as President;

- (iii) a declaration that upon a true and proper interpretation of articles 58(2) and 66(1), (2) and (3)(a) of the Constitution, a person elected as President shall not hold office for more than two terms with each term consisting of four years (making a total of eight years), whether the two terms are consecutive or non-consecutive;
- (iv) a declaration that upon a true and proper interpretation of articles 58(2), 60(7), 63(2), 66(1) and (2) of the Constitution, a Vice-President who assumes office as President for more than half of the unexpired term of a President is only eligible to contest to be elected as President for one term, whether in an election held before the end of the unexpired term of the President he succeeded or at another election held in the future;
- (v) a declaration that upon a true and proper interpretation of articles 58(2), 60(6), 66(1), (2) and (3)(a) of the Constitution, a person who has previously held office as President for one term shall be eligible to serve as President for only one more term, whether the term previously served as President immediately preceded the election he contests or that term is followed by the term of a different person as President;
- (vi) any other order(s) as to this Honourable Court may seem meet.

2. **Capacity in which Plaintiff is bringing the action is as follows:**

The Plaintiff brings this action as a major stakeholder in Ghana's democracy and a political party with a rich tradition of upholding constitutionalism, the rule of law and contributing to the constitutional jurisprudence of the Supreme Court since the inception of the Constitution, 1992.

a. **Address for service of the Plaintiff is as follows:**

The Headquarters of the New Patriotic Party,
Asylum Down,
Accra.

b. The address of Counsel for Plaintiff is as follows:

DAME & PARTNERS
55A Kakramadu Link,
Cantonments, Accra.

3. The name and address of person to be affected by this writ are as follows:

The Attorney-General
Office of the Attorney-General and Ministry of Justice
Law House, Accra.

DATED AT DAME AND PARTNERS, ACCRA THIS 29TH DAY OF
JULY, 2026



GODFRED YEBOAH DAME
Solicitor's Licence No: eGAR04164/26
DAME & PARTNERS
Chamber Reg. No: ePP00296/26
Lawyer for Plaintiff

The Registrar
Supreme Court
Accra

AND FOR SERVICE ON THE ABOVE-NAMED DEFENDANT

Filed on... 30/07/2020
at... 10:00 am
Registrar
SUPREME COURT OF GHANA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA- A.D. 2026

Suit No.

Between

THE NEW PATRIOTIC PARTY
Asylum Down
Accra.

Plaintiff

And

THE ATTORNEY-GENERAL
Office of the Attorney-General and Ministry of Justice
Accra

Defendant

STATEMENT OF CASE

1.0 INTRODUCTION

- 1.1 Respectfully, the Plaintiff is a registered political party which has participated in all presidential elections held in Ghana under the Constitution, 1992 and won in four (4) of them.
- 1.2 Plaintiff has firmly established a rich tradition of upholding constitutionalism, the rule of law and contributing to the constitutional jurisprudence of the Supreme Court since the inception of the Constitution through the successful institution of several suits in the Supreme Court of Ghana which have had a strong impact in consolidating the ethos, values and spirit of the Constitution and ultimately, preserving the peace and harmony of Ghana as a nation. Plaintiff is thus a major stakeholder in Ghana's democracy.
- 1.3 Inspired by the urgent need to protect the fundamental principles underpinning the Constitution, the peace of the Republic and to avert a slip of the nation back to the era of absolutism and dictatorship, the plaintiff invokes the original

jurisdiction of the Supreme Court under articles 2(1) and 130(1) of the Constitution, 1992, for the following reliefs:

- (i) a declaration that upon a true and proper interpretation of articles 58(2) and 66(1), (2) and (3)(a) of the Constitution, "*two terms*" stipulated as the limit on the terms a person may hold office as President of Ghana refers to and means a maximum of two terms whether served by a person consecutively or non-consecutively;
- (ii) a declaration that upon a true and proper interpretation of articles 58(2) and 66(1), (2) and (3)(a) of the Constitution, a person shall not be elected more than twice to hold office as President;
- (iii) a declaration that upon a true and proper interpretation of articles 58(2) and 66(1), (2) and (3)(a) of the Constitution, a person elected as President shall not hold office for more than two terms with each term consisting of four years (making a total of eight years), whether the two terms are consecutive or non-consecutive;
- (iv) a declaration that upon a true and proper interpretation of articles 58(2), 60(7), 63(2), 66(1) and (2) of the Constitution, a Vice-President who assumes office as President for more than half of the unexpired term of a President is only eligible to contest to be elected as President for one term, whether in an election held before the end of the unexpired term of the President he succeeded or at another election held in the future;
- (v) a declaration that upon a true and proper interpretation of articles 58(2), 60(6), 66(1), (2) and (3)(a) of the Constitution, a person who has previously held office as President for one term shall be eligible to serve as President for only one more term, whether the term previously served as President immediately preceded the election he contests or that term is followed by the term of a different person as President;

- (vi) any other order(s) as to this Honourable Court may seem meet.

1.4 We will present this Statement of Case in the following order:

- a. Facts of case
- b. Original jurisdiction of this Court
- c. The proper and applicable principles of interpretation
- d. Arguments by plaintiff in substantiation of reliefs sought
- e. Conclusion.

2.0 FACTS OF CASE

2.1 The Constitution of Ghana, 1992 establishes a presidential executive with a specific term. The President is to be elected at elections to be held every 4 years. Towards delineating and clearly limiting the period a person may serve as President, article 66 provides for when a person elected as President can hold office, the length of the term, the number of terms a person may hold office as President and when a vacancy is created in the office of President.

2.2 The full provision in article 66 is as follows:

“66. (1) A person elected as President shall, subject to clause (3) of this article, hold office for a term of four years beginning from the date on which he is sworn in as President.

(2) A person shall not be elected to hold office as President of Ghana for more than two terms.

(3) The office of President shall become vacant –

(a) on the expiration of the period specified in clause (1) of this article; or

(b) if the incumbent dies or resigns from office or ceases to hold office under article 69 of this Constitution.

(4) The President may, by writing signed by him, and addressed to the Speaker or Parliament, resign from his office as President."

- 2.3 In the view of the Plaintiff, this limitation on the number of terms a person may aspire to hold office as President of the Republic to "two terms", is clear and devoid of controversy. A person who has satisfied the constitutionally stipulated qualifications for election as President, may be elected for a term which lasts 4 years commencing from the date that person is sworn in as President and ending at the midnight of exactly 4 years from the date he is sworn in as President. That person may, thereafter, be eligible to contest to be elected as President again for only one more term.
- 2.4 That limitation to one additional term applies irrespective of whether the person who has already served one term was defeated in a bid for immediate re-election. **A failure to secure immediate re-election does not extinguish the one term already served, nor does it revive or reset the constitutional limit.** Accordingly, if such a person subsequently returns to office after winning a future election, that person remains eligible to serve for only one additional term.
- 2.5 It is the Plaintiff's respectful contention that a person's constitutional entitlement to serve as President for a maximum of two terms is neither enlarged nor altered by the failure of an earlier bid for immediate re-election. The constitutional limit remains fixed and is not contingent upon the outcome of any particular election.
- 2.6 In other words, after serving one term as President, a person's failure to be re-elected immediately thereafter does not open a fresh avenue for that person to be elected President again, and for that person to have the opportunity to serve a cumulative total of three or more terms as President. In other words, after failing to be re-elected immediately following the expiry of that first term, such a person remains eligible to serve as President for only one additional term – not two, three or more.

- 2.6 Plaintiff states that, however, recent controversy has been raging in the country about whether this hitherto generally acknowledged meaning of article 66(2) of the Constitution is correct, with some citizens and sections of the populace offering different meanings suggesting that “two terms” means “two consecutive terms”, thereby inserting the word “consecutive” into the constitutional text. The proponents of this patently erroneous and constitutionally impermissible theory contend that a person who has previously served one term as President and who fails in a bid for immediate re-election while in office, but is subsequently elected after having vacated office, may, upon that election, remain eligible to contest yet another presidential term. On this interpretation, such a person could ultimately aspire to serve three or more cumulative terms as President of Ghana.
- 2.7 Plaintiff considers this proposition not only absurd but dangerous for the democracy, peace and stability of the nation. Acceding to this interpretation will condone and sanction manipulation of clear provisions in the Constitution as it involves inserting words into the constitutional text – it will involve amending the Constitution through judicial fiat. This undoubtedly presents an imminent danger to the Constitution itself.
- 2.8 Plaintiff submits that for the sake of certainty, clarity and avoidance of an unnecessary situation in the future where a person or group of people will disturb the peace and stability of Ghana’s democracy with an unconstitutional bid for a third term after having already served as President for 2 terms, there is the need for an interpretation of articles 63(2) and 66(1) and (2) of the Constitution. There is also the need for an interpretation of article 60(7) of the Constitution, relating to the number of terms a person who had ascended to the Presidency following previous service as Vice-President, may aspire to be President.

3.0 ORIGINAL JURISDICTION OF THIS HONOURABLE COURT

- 3.1 Respectfully, it is proper to address this Honourable Court on the preliminary issue of jurisdiction. This approach accords with established judicial practice and principles, exemplified notably in the decision of this Honourable Court in **Attorney-General (No. 2) v. Tsatsu Tsikata (No. 2)** [2001-2002] SCGLR 620, wherein Acquah JSC (as he then was) stated as follows:

"It is therefore trite knowledge that the duty of every judge in any proceedings is to satisfy himself that he has jurisdiction in the matter before him."

- 3.2 The original jurisdiction of this Honourable Court emanates from the Constitution. The explicit terms of Articles 2(1) and 130(1) of the Constitution ground this Court's jurisdiction to entertain actions by which a person either seeks interpretation of the Constitution or an enforcement of same.
- 3.3 For the avoidance of doubt, Article 2(1) of the Constitution provides as follows:

"2. Enforcement of the Constitution

(1) A person who alleges that

(a) an enactment or anything contained in or done under the authority of that or any other enactment, or

(b) any act or omission of any person,

is inconsistent with, or is in contravention of a provision of this Constitution, may bring an action in the Supreme Court for a declaration to that effect."

- 3.4 Article 130(1) further provides that:

"130. Original jurisdiction of the Supreme Court

(1) Subject to the jurisdiction of the High Court in the enforcement of the Fundamental Human Rights and Freedoms as provided in article 33 of this Constitution, the Supreme Court shall have exclusive original jurisdiction in –
(a) all matters relating to the enforcement or interpretation of this Constitution; and

(b) all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under this Constitution.”

3.5 In the instant case, it is humbly submitted that the Supreme Court’s jurisdiction has been properly invoked for an interpretation of the relevant constitutional provisions indicated in the writ of summons and the facts of the instant case.

3.6 For more than forty-five (45) years, the jurisprudence of this Honourable Court has consistently defined circumstances under which a question of constitutional interpretation may properly arise. Notably, in the seminal decision of **Republic v. Special Tribunal; Ex parte Akosah** [1980] GLR 592, the Court of Appeal, then sitting as the Supreme Court, carefully considered the circumstances under which an issue of interpretation or enforcement arises within the contemplation of Article 118(1)(a) of the 1979 Constitution, which provided as follows:

*“118. (1) The Supreme Court shall, except as otherwise provided in article 35 of this Constitution, have original jurisdiction, to the exclusion of all other courts,
(a) in all matters relating to the enforcement or interpretation of any provision of this Constitution; and
(b) where a question arises whether an enactment was made in excess of the powers conferred upon Parliament or any other authority or person by law or under this Constitution.”*

3.7 Explaining this test, *Anin JA*, delivering the judgment of the Court after reviewing previous decisions on the matter, summarised the position at page 605 thus:

*“Summary of the Case Law on Enforcement or Interpretation
From the foregoing dicta, we would conclude that an issue of enforcement or interpretation of a provision of the Constitution under article 118(1)(a) arises in any of the following eventualities:*

(a) where the words of the provision are imprecise or unclear or ambiguous. Put in another way, it arises if one party invites

the court to declare that the words of the article have a double-meaning or are obscure or otherwise mean something different from or more than what they say;

(b) where rival meanings have been placed by the litigants on the words of any provision of the Constitution;

(c) where there is a conflict in the meaning and effect of two or more articles of the Constitution, and the question is raised as to which provision shall prevail;

(d) where on the face of the provisions, there is a conflict between the operation of particular institutions set up under the Constitution, and thereby raising problems of enforcement and of interpretation.

On the other hand, there is no case of "enforcement or interpretation" where the language of the article of the Constitution is clear, precise and unambiguous...he should certainly not invoke the Supreme Court's original jurisdiction under article 118."

3.8 The test set out in **Ex parte Akosah** (supra) has been applied with approval by the Supreme Court in the Fourth Republic in relation to its original interpretative and enforcement jurisdiction under articles 2(1) and 130(1) of the Constitution in cases such as **Republic v High Court (Fast Track Division) Accra; ex parte Electoral Commission (Mettle-Nunoo & Others Interested Parties)** [2005-2006] SCGLR 514, **Republic v. Edusei (No. 2) v Attorney General** [1998-99] SCGLR 753; and **Republic v Court of Appeal, Accra; ex parte Tsatsu Tsikata** [2005-2006] SCGLR 612.

3.10 In more recent decisions, this Court has adopted the same approach in **Michael Ankomah Nimfah v. Gyakye Quayson & 2 Others** (Writ No. j1/11/2022 - Judgment delivered on 17th May, 2023) when, speaking through Amegatcher JSC, it noted as follows:

*"However, if parties raise rival positions regarding the meaning and application of the text of the Constitution or the words of a constitutional provision are imprecise, unclear, or ambiguous, then the exclusive jurisdiction of this court is properly invoked for the resolution of the proper interpretation to place on the relevant provision under **article 130**. See the*

oft-cited decision in **Republic v Special Tribunal; Ex Parte Akosah 1980 GLR 592**. Again, if there is a breach of the Constitution, the enforcement jurisdiction of this court conferred in **article 2** is rightly invoked.”

- 3.11 See also: **Justice Abdulai v. The Attorney-General** - Suit no. J1/07/2022 (Unreported - Judgment delivered on 6 March 2022); **Michael Ankomah Nimfah v. James Gyakyé Quayson** - Suit No. J1/11/2022 (Unreported - Judgment delivered on 17 May 2023); and **Alexander Afenyo Markin vrs. 1. Speaker of Parliament 2. Attorney-General** - Suit No. J1/01/2025 (Unreported - Judgment delivered on 12 November 2024) and **Republic v. High Court (General Jurisdiction), Accra; Ex Parte Dr. Zanetor Rawlings (Ashithey and National Democratic Congress as Interested Parties)** [2015-2016] 1 SCGLR 92, where the Supreme Court reiterated its constitutional authority to pronounce definitively on the meaning and scope of all constitutional provisions, irrespective of their subject matter.
- 3.12 In the instant case, it is respectfully submitted that a genuine and substantial issue of constitutional interpretation arises to warrant the invocation of the relevant constitutional provisions. In their literal and plain construction, clauses (1) and (2) of Article 66 permit a person who has satisfied the constitutionally stipulated qualifications for election as President, to be elected for a term which lasts 4 years commencing from the date the person is sworn in as President. That person may be eligible to contest to be elected as President again for only one more term. This makes a total of two terms, adding up to 8 years in total, for a person to serve as President of Ghana. The Constitution does not state that the two terms must be consecutive. It simply provides for “two terms.” Had the framers intended to limit only consecutive terms, they could easily have said so. Their deliberate use of the unqualified phrase “two terms” admits of no distinction between consecutive and non-consecutive terms.
- 3.13 In the view of the plaintiff, it is immaterial whether the two-term limit prescribed by the Constitution for a person serving as President of Ghana is understood to permit consecutive or

non-consecutive terms. The Constitution simply limits a person to "two terms". It cannot reasonably be construed to mean that where a person fails in a bid for immediate re-election, that failure revives or resets the constitutional limit, thereby entitling that person to aspire to a further two terms and, in effect, to serve more than two terms as President.

3.14 Nevertheless, the recent controversy in the country, fuelled by competing interpretations of article 66(2) of the Constitution, has given rise to the contention that the constitutional limitation of "two terms" should be understood as meaning two consecutive terms only, with the consequence that a person who has previously served as President but failed in a bid for immediate re-election acquires a fresh entitlement to contest for another two terms. The emergence of this competing interpretation demonstrates the need for the invocation of this Honourable Court's interpretative jurisdiction to settle the true meaning and effect of article 66(2) of the Constitution.

3.15 Considering the well-established jurisprudence of this Honourable Court developed over the past five decades, it is submitted that the invocation of the original jurisdiction of this Court by the Plaintiff is proper and justified.

4.0 PROPER AND APPLICABLE PRINCIPLES OF INTERPRETATION

4.1 The jurisprudence of this Honourable Court has firmly and consistently established that a purely literal construction of the Constitution, divorced from a consideration of related constitutional provisions and the underlying values, principles, and purposes that animate the Constitution as a whole, does not constitute an appropriate or permissible approach to constitutional interpretation. Rather, a purposive, harmonious and holistic reading of the Constitution is required to give full effect to its spirit, intent, and framework.

- 4.2 It is respectfully submitted that, that the starting point for any discussion on purposive interpretation of the Constitution has to be the locus classicus of **Tuffuor v. Attorney-General** [1980] GLR, C.A sitting as SC per Sowah JSC in his oft-quoted dictum, gave a clue as to what constitutes the spirit of the Constitution and the need to depart from a doctrinaire and narrow interpretation of the Constitution, at pages 647-648:

"The Constitution has its letter of the law. Equally, the Constitution has its spirit ... Its language, therefore, must be considered as if it were a living organism capable of growth and development. A broad and liberal spirit is required for its interpretation. It does not admit of a narrow interpretation. A doctrinaire approach to interpretation would not do. We must take account of its principles and bring that consideration to bear, in bringing it into conformity with the needs of the time".

- 4.3 Wood CJ, relatively recently in **Brown v. Attorney-General (Audit Service Case)** [2010] SCGLR 183, gave the necessary direction as to the most preferred approach to interpreting the Constitution of Ghana.

"The purposive and literal approach in proper context is commendable; it is the purely mechanical or literal that pays no heed to the legislative purpose or intent, that has no place in this area of the law ... In the proper context, the objective purpose approach would be the preferred approach, if the Constitution must be read as a whole, in terms of both its explicit and implicit language, and read as a living document, with a view to actualizing core values and meeting the hopes and aspirations of the people for whom it was crafted. The spirit of the 1992 Constitution, a judicially established aid to interpretation is embodied not only in the actual texts, under consideration, but also the goals and objectives as captured in the Preamble, the Directive Principles of State Policy, and indeed the entire document."

- 4.4 In **Agyei-Twum v. Attorney-General & Akwettey** [2005-2006] SCGLR 732, Date-Bah JSC obviously inspired by

Sowah JSC's dictum in **Tuffuor v. Attorney-General** (supra), stated thus:

"The fact that a country has a written constitution does not mean that only its letter may be interpreted. The courts have the responsibility for distilling the spirit of the Constitution from its underlying philosophy, core values, basic structure, the history and nature of the country's legal and political systems, etc. in order to determine what implicit provisions in the written constitution would flow inexorably from that spirit".

- 4.5 See also: **National Media Commission v. Attorney-General** [2000] SCGLR 1; **Asare v. Attorney-General** [2003-2004] 2 SCGLR 823; **Omaboe III v. Attorney-General** [2005-2006] SCGLR 579; and **Ghana Lotto Operators Association v. National Lottery Authority** [2007-2008] 2 SCGLR 1088
- 4.6 We submit on the strength of the above that the mechanistic, literal way of interpreting the Constitution has been jettisoned as same is completely out of date and unhelpful to the realisation of our objects as a nation as enshrined in the Constitution. In contrast to the blindly literal approach, the modern purposive approach adopted by the courts invites judges to interpret and apply the Constitution in a way that gives meaning to the core values, objects, and history underpinning its text.
- 4.7 This approach also cautions against judges deeming themselves impotent or incapacitated when faced with situations where there are lacunae, ambiguities or gaps in the law, and admonishes them to interpret laws in a way that harmonises with the values and goals of the nation as enshrined in the Constitution. The underlying rationale of this modern approach to constitutional interpretation is to avoid a blindly "strict construction" that would give rise to profound absurdity, chaos in the society, an undermining of the democratic credentials of the nation and social retrogression.

- 4.8 The modern purposive approach, consistently embraced by this Honourable Court, recognises the Constitution as a charter designed to set the nation on a stable path to development and democracy rather than an instrument that may be manipulated by a few misguided elements motivated by their parochial ends. This interpretative method enjoins judges to give effect to the spirit, purpose, and historical context of the constitutional text, ensuring that its provisions are applied to vindicate the core values of justice, rule of law, and democratic governance.
- 4.9 It acknowledges the interpretative responsibility of the judiciary, where necessary, to fill constitutional or statutory lacunae in a principled and constitutionally faithful manner, always guided by the overarching aims and values of the Republic. The purposive method thus serves as a vital safeguard against interpretations that would produce absurd results, manifest injustice or retrogressive outcomes inimical to the progress and coherence of our constitutional democracy.
- 4.10 The Ghanaian jurisprudence is clear that the purposive approach to interpretation, and indeed judicial interpretation in general, shall not be used to rewrite or redraft the Constitution. In ***Republic v. Fast Track High Court, Accra, ex parte Daniel*** [2003-2004] 1 SCGLR 364, 370, it was held per Professor A.P.K. Kludze JSC that:

"We cannot, under the cloak of constitutional interpretation, rewrite the Constitution of Ghana. Even in the area of statutory interpretation, we cannot amend a piece of legislation because we dislike its terms or because we suppose that the lawgiver was mistaken or unwise. Our responsibility is greater when we interpret the constitution. We cannot and must not substitute our wisdom for the collective wisdom of the framers of the constitution... that is a fundamental rule of constitutional and statutory interpretation... We must not insert our own words or remove words from the legislation in order to arrive at a conclusion that we consider desirable or socially acceptable. If we do that, we usurp the legislative function

which has been consigned to the legislator. That is a prescription for tyranny of the judicial branch and a harbinger of constitutional crisis, if not chaos and anarchy."

- 4.11 Similarly, in **Elikplim Agbemava v. Attorney-General and Alfred Tuah- Yeboah v. Attorney-General and Nana Asante Bediatuo v. Attorney General** [2018] DLSC 3048 the court held regarding inserting words into the Constitution that,

"The court is bereft of power or authority to do that, it will amount to legislating and not adjudicating."

- 4.12 Professor Atuguba has noted that the *"sanctity of the Constitution is whittled away if the courts read words into it to supplant its clear provisions."* See **Raymond Akongburo Atuguba, The New Constitutional Law and Administrative Law of Ghana: From the Garden of Eden to 2022** (2022) at 725.

5.0 ARGUMENTS IN SUPPORT OF THE RELIEFS SOUGHT BY THE PLAINTIFF

- 5.1 This Honourable Court is invited to hold, upon a careful and purposive interpretation of the relevant provisions of the Constitution and after due consideration of the submissions herein advanced, that:
- a. *"two terms"* stipulated as the limit in article 66(2) regarding the number of terms a person may hold office as President of Ghana refers to and means a maximum of two terms whether served by that person consecutively or non-consecutively;
 - b. the Constitution does not concern itself with whether a person's effort to be President is broken up or severed by a failure at the polls after that person has previously served in office as President for one term.
 - c. the Constitution is concerned with an unreasonably long *"reign"* of one person as President and therefore has

stipulated a term limit. That term limit is a maximum of two terms with each consisting of four years.

- d. thus, a person elected as President shall not hold office as President for more than two terms with each term consisting of four years (making a total of eight years), whether the two terms are consecutive or non-consecutive;
- e. this understanding is fortified by the provisions relating to the succession of a Vice-President to the Presidency following the creation of a vacancy. A Vice-President who assumes office as President for more than half of the unexpired term of a President is eligible to contest to be elected as President for **one term only**,
- f. this situation in (e) above, prevails whether the person who previously served as Vice-President is subsequently elected as President in an election held before the end of the unexpired term of the President he succeeded or at another election held in the future;
- g. a person who has previously held office as President for one term shall be eligible to serve as President for only one more term, whether the term previously served as President immediately preceded the election he contests, or that term is followed by the term of a different person as President of Ghana.

5.2 We begin our substantive submissions by making the point that the Presidential system of government set up by the Constitution recognises persons as eligible to contest presidential elections where they satisfy the criteria stipulated in **article 62** of the Constitution. Even though the right to form political parties is guaranteed by article 55(1) and political parties are free to participate in the shaping of the political will of the people, disseminate information on political ideas, social and economic programmes of a national character and sponsor candidates for elections to any public office other than District Assemblies or lower government units, political parties do not contest presidential elections. The right to contest elections is thus limited to Ghanaian citizens by birth who meet the qualification criteria in article

- 5.3 Thus, the limitations on the term of the President, creation of vacancy in the office of President and conduct of elections are targeted at individuals who aspire to be elected to the high office of President of Ghana, and not political parties.
- 5.4 It is for this reason that the relevant parts of **articles 62, 63 and 66** use the expression “a person”. Thus, the Constitution is concerned about the despotic tendencies, unnecessary overstay of a person at the helm of affairs as President of Ghana and the undue concentration of power in the hands of one individual for more than two terms, making up a total period of 8 years – rather than the period a political party may successfully sponsor a candidate for election as President. In essence, whereas a political party may be able to sponsor different individuals to be President for more than two terms whether consecutively or non-consecutively, a particular person is only eligible to serve as President for only two terms of 4 years each, whether those 2 terms as President are consecutive or not.
- 5.5 We submit that the Constitution has in clear terms, indicated the length of term of the presidency, when the term commences and ends, and the limitation on the number of terms a person may hold office as President.

Length of term

- 5.6 Regarding length of a term of office as President, article 66(1) provides thus:

*“(1) A person elected as President shall, subject to clause (3) of this article, hold office **for a term of four years beginning from the date on which he is sworn in as President.**”*

- 5.7 Article 66(3)(a) puts the length of a term beyond doubt when it stipulated that, “*the office of President shall become vacant **on the expiration for the period specified in clause (1) of this article***”. Thus, it is amply clear that the Constitution

intended to state with sufficient clarity the term of the President in indicating that his term ends on the expiration of exactly four years after being sworn in as President. It is for this reason that a President is now sworn in as President on 7th January, and his term expires on the midnight of 6th January 4 years after having been sworn into office.

Limitation on number of terms

- 5.8 We further submit that there is an explicit “two term” limit placed on the ability of a person to serve as President of Ghana. Clause 2 of article 66 contains this explicit restriction as it states with quite sufficient precision and lucidity that:

“A person shall not be elected to hold office as President of Ghana for more than two terms.”

- 5.9 Words must be given their natural and ordinary meaning, unless same leads to absurdity. In our submission, this clear provision suggests that the election of a person as President for more than “two terms” is invalid and forbidden by the Constitution. If one cannot be elected to hold office as President, one is not eligible to contest or aspire to hold that office. The limitation is not qualified by any words - “consecutive”, “successive”, “uninterrupted”, “unbroken”, “back-to-back”, etc. Thus, whether a person’s term as President is interrupted or broken by a failed bid to be President again at an election conducted when he is in office, or a simple lack of interest in contesting again to be President, article 66(2) restricts that person to just one possible term after vacating office under any of the circumstances stipulated in clause 3 of article 66 (except death).

- 5.9 The plaintiff submits that the attempt to suggest that “two terms” in article 66(2) means or implies two *consecutive* or *successive* terms, amounts to an unconstitutional insertion or importation of words into the Constitution, where same may not be implied at all, from a proper textual interpretation of the Constitution. It is submitted that, when due account is

taken of this, a resolution of the issues in controversy in this matter becomes easy and devoid of any controversy at all.

- 5.10 It is settled law that words used in a statute must be given their natural and plain meaning provided they are clear and unambiguous. This proposition finds support in **Gbedemah v Awoonor Williams** (1969) G&G 439 at 440, wherein this Court held that, “... *in our view unless the words of a statute are imprecise and ambiguous the court does not apply the rules and presumptions of construction...*” We invite the Court to apply the clear and ordinary meaning of the words in article 66(2), which is that a person is entitled to “two terms” only as President of Ghana, no matter the number of times the person stood for elections.
- 5.11 Any interpretation contrary to the Plaintiff’s construction would produce uncertainty, logical inconsistency and inequality in the operation of the Constitution. It would mean that the people of Ghana could not know with certainty the maximum number of terms for which a person may serve as President, because that limit would depend, not on the Constitution, but on the outcome of a particular election.
- 5.12 Under such an interpretation, a person who succeeds in securing immediate re-election as President would be constitutionally limited to two terms, or eight years, in office. Conversely, a person who is defeated in a bid for immediate re-election would, upon subsequently returning to office through a later election, be treated as having acquired a fresh entitlement to serve a further two terms, thereby making it possible for that person to serve for twelve years or even longer as President. The constitutional limit on tenure would, therefore, become contingent upon electoral fortune rather than the objective limitation prescribed by the Constitution.
- 5.13 Such an interpretation would create an irrational and unequal constitutional regime in which a failed re-election bid confers a greater advantage than a successful one. It would also undermine the certainty, coherence, and equal application of the Constitution. The Constitution should not be construed in a manner that produces such arbitrary, inconsistent, and illogical consequences.

5.14 See: **Alexander Afenyo Markin V. 1. The Speaker of Parliament 2. The Attorney-General** (supra) per Y. Darko Asare JSC at pages 34 – 36.

5.15 The need for an interpretation of the Constitution, or indeed any law, to be undertaken in order to avoid inconsistencies, inequalities and contradictions was highlighted by Taylor J (as he then was), when he stated in **Sam v. Comptroller of Customs and Excise** [1971] 1 GLR 289 at 313, that the framers of every legislation cannot “*exhibit such a split personality and be a veritable Dr. Jekyll and Mr. Hyde*”.

5.16 We invite the Court to give effect to the ordinary meaning of the words in article 66 and not import extraneous extensions to the term of a President which is unknown and unintended by the Constitution. This will be antithetical to the letter and spirit of the Constitution. In **Omaboe III v. Attorney General and Land Commission** [2005-2006] SCGLR 579 this Court, noted through Ocran JSC, at 589- 590 that:

“It seems fair to start from the proposition that if the words of the provision to be interpreted are clear, we must follow them. Sowah JSC (as he then was), remarked in Tuffuor v. Attorney-General [1980] GLR 637 at 659-660 that:

... our first duty is to take the words as they stand and give them their true construction having regard to the language of the provisions of the Constitution, always preferring the natural meaning of the words involved, but nonetheless giving the words their appropriate construction according to the text...”

5.17 It is imperative to note that the **Constitution Review Commission Report, 2011** at page 99, recommended that the Constitution be amended to make it clear that a person who has been President for two terms of four years shall not qualify to stand for re-election as President. It stated as follows:

“The Commission further recommends that where the President serves for only one term of 4 years, he should be allowed to contest for another 4-year term after an

interval, but he may not serve for more than 8 years in total."

The meaning to be inferred from the limitation on the term of a Vice-President who assumes office as President

- 5.18 The Court would note that article 60(6) of the Constitution mandates the Vice-President to assume office as President for the unexpired term of office of the President with effect from the date of the death, resignation or removal of the President. This provision has been activated in the life of the 4th Republic, owing to the death of a President in 2012.
- 5.19 Instructively, clause 7 of article 60 specifically proceeds to limit the number of terms that the Vice-President may become eligible to contest as President to only one term, where the unexpired term of the President he succeeded is more than half the term of that President. Thus, if the Vice-President ascends to the Presidency following the death, resignation or removal of the President, and the unexpired term of the President is more than half, the Vice-President is subsequently eligible to serve only one term as President. He cannot put himself forward for election as President. In our submission, this is a clear indication that the Constitution could not have intended more than two terms for a person as the President.
- 5.20 In the view of the framers of the Constitution, excess of half of an unexpired term as President means more than 2 years. Thus, a Vice-President who assumes office for more than 2 years as President, when elected at the next election, would be able to serve at least 6 years. This is considered enough by the framers of the Constitution. That person is barred by article 60(7) from contesting substantively to be elected as President for more than one term. He is restricted to serving only full term thereafter as President. He is not eligible to contest a second term after having completed 6 years as President. If he contests to be President again after having completed 6 years as President and he is successful, this will give him a total of at least 10 years. This is what the Constitution expressly forbids in article 60(7).

5.21 In our submission, the prohibition in article 60(7) on the Vice-President in contesting for more than one term where he completed an expired term of a President which is in excess of 2 years, supports the proposition that the Constitution could never have intended to give any person the opportunity of serving the nation as President for more than 8 years. The question ought to be asked, if the Constitution is content to curtail a Vice-President who assumed office as President for more than half the unexpired term of the President to only one term thereafter, how can the same Constitution give to another person the opportunity to be President for at least three terms in total, implying that the person can be President for more than 12 years?

5.22 Clearly, such a result will work manifest absurdity, inequality and logical inconsistency which the Constitution could never have intended.

6.0 Comparative studies of attempts to evade term limits in other African jurisdiction

6.1 Respectfully, we deem it appropriate to consider the effects of attempts by some African governments to alter presidential term limits on the democracy in their respective countries. A study developed in **2021** by the African Centre for Strategic Studies, a U. S. Department of Defense Institution established and funded by the US Congress for the study of security issues on the African continent, shows that attempts to evade presidential term limits in African countries carries far-reaching consequences for the governance, security and development of the countries in question.

6.2 Ghana is listed among fourteen (14) countries in Africa with its first leader under a constitutional democracy to adhere to term limits. Tanzania is the first in this group with its President leaving power in 1995 followed by Ghana (J. J. Rawlings in 2001), Sao Tome and Principe (2001), Cabo Verde (2001), Mauritius (2002) and Kenya (Moi, 2002). Other countries of note in this group of 14 are South Africa (2008),

Botswana (2008), Mozambique (2005), Sierra Leone (2007), Namibia (2015) and Liberia (2018).

- 6.3 Africa has seen a reversal in term limits since 2015. Since that time, leaders of 13 countries have evaded or overseen the further weakening of term limit restrictions that had been in place. These are Algeria, Burundi, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Guinea, Republic of the Congo, Rwanda, South Sudan, Togo, Uganda.
- 6.4 However, several African countries have strengthened or upheld term limits since 2015. A group of over 20 African countries, including Benin, Liberia, Mauritania, Senegal and the Seychelles, continue to uphold term limits. There is a notable regional variation in upholding of presidential term limits. Countries in southern and western Africa have demonstrated the greatest adherence to constitutional norms of observing limitations to presidential terms, while countries in northern, central and the Horn of Africa have failed to do so.
- 6.5 The Report of the African Centre for Strategic Studies notes that the lack of effective term limits has resulted in Africa having 10 leaders who have ruled for over 20 years and two-family dynasties that have been in power for more than 50 years. These are:

Country	Leader	Years
Gabon	Bongo dynasty	53
Togo	Gnassingbé dynasty	53
Equatorial Guinea	Teodoro Obiang	41
Cameroon	Paul Biya	38
Eswatini	King Mswati III	34
Uganda	Yoweri Museveni	34
Chad	Idriss Déby*	30
Eritrea	Isaias Afwerki	27
Republic of the Congo	Denis Sassou-Nguesso**	23
Djibouti	Ismail Omar Guelleh	21
Morocco	King Mohammed VI	21
Rwanda	Paul Kagame	20

* Subsequently deceased.

** Sassou-Nguesso led a single party regime from 1979-1992 prior to regaining power in 1997, thus has held power for a total of 36 nonconsecutive years.

- 6.6 Ali Bongo Ondimba was removed from office in 2023 through a coup d'état after the Bongo dynasty had stayed in office for a total of 55 years. The Gnassingbe dynasty continues to rule Togo making it over 58 years in all. Paul Biya of Cameroon also continues to rule, making it a total of over 44 years. Isaias Afwerki of Eritrea continues to rule the country since 1993. So does Ismail Omar Guelleh of Djibouti and Paul Kagame of Rwanda.
- 6.7 The erosion of presidential term limits or attempts to modify same, it is noted, has been a setback for good governance in Africa. All African countries facing civil conflict (excluding insurgencies by militant Islamist groups) are those without presidential term limits. The African Centre for Strategic Studies notes that of the 10 African countries that are the largest source of Africa's 32 million refugees and internally displaced populations, 7 are countries that lack presidential term limits.

Notable Countries with Term-Limit Conflicts

- 6.8 Around the world, attempts to tinker with presidential term limits have been resisted by the people and unleashed a spate of violent protests and deadly unrests.
- **Burundi (2015):** President Pierre Nkurunziza's bid for a disputed third term sparked months of severe street protests, a failed military coup, and violent clashes that resulted in hundreds of deaths and displaced hundreds of thousands of people.
 - **Burkina Faso (2014):** Mass uprisings erupted after President Blaise Compaoré tried to amend the constitution to extend his 27-year rule. Demonstrators stormed and burned the parliament building, forcing Compaoré to resign and flee the country.
 - **Guinea (2020):** President Alpha Condé pushed through a controversial constitutional referendum to reset his term count and run for a third term. The manoeuvre led to violent post-election unrest and street clashes, eventually culminating in a military coup that overthrew Condé.
 - **Democratic Republic of the Congo (DRC):** Efforts and proposed laws by successive administrations to delay elections or alter regulations around presidential limits have repeatedly triggered deadly street demonstrations and clashes between security forces and opposition groups.
 - **Togo (2002–2019):** Presidential term limits were originally stripped from the constitution in 2002 to allow Gnassingbé Eyadéma to extend his tenure, leading to intense political crises. Subsequent opposition demands and nationwide protests forced a re-institution of limits in 2019, though further legislative changes continue to stoke tension.
 - **Bolivia (2016–2019):** President Evo Morales sought to bypass a negative referendum result on term limits through a ruling by a friendly constitutional court. This decision fuelled massive civic strikes and deadly unrest in 2019, ultimately ending in his resignation.

- 6.9 Corruption is a challenge in many African countries. However, Transparency International has observed that it is particularly pernicious in countries without term limits. For countries that have modified or eliminated term limits, the median ranking on Transparency International's annual Corruption Perceptions Index is 134 out of 180 countries. This is 46 places lower than the average ranking for African countries that have adhered to term limits.
- 6.10 An attempt to modify Ghana's 2 term limits on her presidency will be a reversal of the gains the country has achieved in its democratic journey and will also be against the tide of a drive to institutionalise presidential term limits. The institutionalisation of term limits in Africa is part of a reform effort started in the 1990s to address the legacy of overconcentrated power in the executive. Term limits are seen as an especially important element of checks and balances in Africa given the relative weakness of independent democratic institutions such as the legislature, judiciary, civil service, security forces, media, public protector and the central bank.

Comparative Study of American democracy

- 6.11 It is our respectful submission that the constitutional restriction of two four-year terms in Ghana is on all fours as the situation in the United States of America. By the twenty-second Amendment to the U.S. Constitution enacted and adopted on 27th February, 1951, a constitutional rule was laid down limiting American presidents to two four-year terms in office. Even before the formal recognition of this limitation, historically, American presidents had observed this limitation. George Washington in 1796, stepped down after two terms, setting an unwritten rule that future leaders would follow for over 150 years.
- 6.12 President Franklin D. Roosevelt broke the tradition by winning four elections in a row from 1933 until he died in 1945. The alarm triggered by this compelled America to enact the 22nd Amendment to the Constitution to make the old tradition a strict rule. No person can be elected to the office

of President of America more than twice. If a person takes over the presidency as a result of a vacancy created, the rule depends on the time left that he completes – just like Ghana. Thus, if the person serves for more than 2 years of another person's presidential term, they can only be elected one more time.

- 6.13 With the benefit of the practice and the Constitution of the United States of America which are on all fours as Ghana, we respectfully submit that there is absolutely no reason for a suggestion that “2 terms” can be indefinite or may be construed as depending on whether one's second bid for the presidency was unsuccessful and thus one became President again after a number of unsuccessful attempts.

7.0 CONCLUSION

- 7.1 Respectfully, we have demonstrated, with clues provided by various provisions of the Constitution, 1992 itself that, two terms can only mean a definite restriction of one person's service as President of Ghana for only two terms, implying a limitation of 8 years in all, and nothing more. The only instance in which a person may serve as President for more than 8 years is where that person took over the presidency following a vacancy created by the death, resignation or inability to perform the functions of President and the term left is not more than two years.
- 7.2 The Constitution of the United States of America, which is on all fours as Ghana's and its practice before the 22nd Amendment, support our position. We have demonstrated that in countries where there has been an attempt to modify presidential term limits either through constitutional amendments or constitutional interpretation, chaos and a roll back of gains in its democratic journey have been witnessed.
- 7.3 The Supreme Court stands in a unique position to utilise its enforcement and interpretative jurisdictions to uphold the clear two term limits a person may serve as President of Ghana, and by so doing, spare the nation needless agony and

confusion that may result from an interpretation to the contrary.

Respectfully submitted.

LIST OF AUTHORITIES PLAINTIFF INTENDS TO RELY ON

Plaintiff shall at the hearing, rely on the following reported cases:

1. **Tuffuor v. Attorney-General** [1980] GLR, C.A sitting as SC.
2. **Agyei-Twum v. Attorney-General & Akwettey** [2005-2006] SCGLR 732
3. **R v Special Tribunal Exparte Akosah** [1980] GLR 592 at 605
4. **Justice Paul Uter Dery v Tiger Eye PI & 2 Others** [2015-2016] 2 SCGLR 812
5. **National Media Commission v. Attorney-General** [2000] SCGLR 1
6. **Justice Abdulai v. The Attorney-General** – Suit no. J1/07/2022 (Unreported – Judgment delivered on 9th March, 2022).
7. **Michael Ankomah Nimfa v. James Gyakye Quayson** Suit No. J1/11/2022 (Unreported – Judgment delivered on 17th May, 2023).
8. **Alexander Afenyo Markin vrs. 1. Speaker of Parliament 2. Attorney-General** - Suit No. J1/01/2025 (Unreported – Judgment delivered on 12th November, 2024)
9. **Adjei Ampofo (No. 1) v. Accra Metropolitan Assembly and Attorney-General (No. 1)** [2007-2008] SCGLR 611
10. **Asare v. Attorney-General** [2003-2004] 2 SCGLR 823
11. **Brown v. Attorney-General (Audit Service Case)** [2010] SCGLR 183

12. **Omaboe III v. Attorney-General** [2005-2006] SCGLR 579
13. **Ghana Lotto Operators Association v. National Lottery Authority** [2007-2008] 2 SCGLR 1088
14. **Republic v. High Court (Fast Track Division) Accra; Ex parte Commission on Human Rights and Administrative Justice (Richard Anane interested Party** [2007-2008] 1 SCGLR 213
15. **Gdedemah v. Awoonor-Williams** [1969] G&G 439
16. **Elikplim Agbemava v. Attorney-General and Alfred Tuah-Yeboah v. Attorney-General and Nana Asante Bediatuo v. Attorney General** [2018] DLSC 3048

The plaintiff shall at the hearing seek to rely on the following laws:

- **The Constitution of the Republic of Ghana, 1992.**
- **Supreme Court Rules, 1996 (C.I.16)**

DATED AT DAME & PARTNERS, CANTONMENTS, ACCRA THIS
28TH DAY OF JULY, 2026


GODFRED YEBOAH DAME
Solicitor's Licence No: eGAR04164/26
DAME & PARTNERS
Chamber Reg. No: ePP00296/26
Lawyer for Plaintiff



The Registrar
Supreme Court
Accra

AND FOR SERVICE ON THE ATTORNEY-GENERAL, LAW
HOUSE, ACCRA.

Filed on 30/04/2026
at 10:00 am

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA - A.D. 2026

Suit No.

Between

THE NEW PATRIOTIC PARTY

Asylum Down,
Accra.

Plaintiff

And

THE ATTORNEY-GENERAL

Office of the Attorney-General and Ministry of Justice,
Accra

Defendant

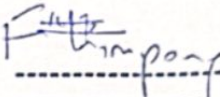
AFFIDAVIT IN VERIFICATION OF STATEMENT OF CASE

I, **JUSTIN KODUA FRIMPONG** of Asylum Down, Accra, do make
oath and say as follows:

1. That I am the General Secretary of the plaintiff political party, Accra, and the deponent hereto.
2. That I have the consent and authority of the plaintiff herein to depose to this affidavit in respect of matters within my knowledge, information and honest belief.
3. That the plaintiff herein filed a statement of case in support of writ issued out of the Registry of this Honourable Court.
4. That the facts stated in the said statement of case are true to the best of my knowledge and belief.
5. That I hereby attach a copy of a Report of the African Center for Strategic Studies, a United States of America Department of Defense Institute, and mark same Exhibit "JFK".

WHEREFORE I humbly swear to this affidavit in support.

SWORN IN ACCRA THIS 30th DAY)
OF JULY, 2026)



DEPONENT

BEFORE ME

EDWARD ADDU-YOBU
COMMISSIONER FOR OATHS
HIGH COURT, ACCRA
COMMISSIONER FOR OATHS

THE REGISTRAR
SUPREME COURT
ACCRA

AND TO THE ATTORNEY-GENERAL, LAW HOUSE, ACCRA.