

Filed on 11/14/24
at 11:52 AM
[Signature]
HIGH COURT
ACCRA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
(GENERAL JURISDICTION)
ACCRA- A.D. 2024

SUIT NO. 51/14/2025

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

UNDER ARTICLE 141 OF THE 1992 CONSTITUTION

AND

ORDER 55 OF HIGH COURT (CIVIL PROCEDURE) RULES, 2004, (C.I.47)

AND

THE INHERENT JURISDICTION OF THE HIGH COURT

REPUBLIC

VERSUS

INSPECTOR GENERAL OF POLICE 1ST RESPONDENT
RESPONDENT

Police Headquarters
Ring Road East,
Cantonment, Ghana

ATTORNEY GENERAL AND MINISTER OF JUSTICE 2ND RESPONDENT
Ministry of Justice and Attorney General's Department
P.O. Box M60, Accra.

EX PARTE:

SERGEANT DAVID OJEYIM
5 Deedaw lane, Madina
Accra.

APPLICANT

AND NINE OTHERS SPECIFIED IN THE ANNEXURE ATTACHED HERETO.

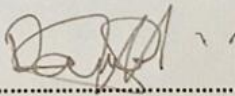
**MOTION ON NOTICE FOR JUDICIAL REVIEW PURSUANT TO ORDER 55 OF THE
HIGH COURT (CIVIL)PROCEDURE RULES 2004, C.I. 47 AND THE INHERENT
JURISDICTION OF THE HIGH COURT**

TAKE NOTICE that this honourable Court shall be moved by **ISSIFU KADIRI ABDUL RAUF ESQ.**, counsel for and on behalf of the Applicants pursuant to Order 55 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) and the Inherent Jurisdiction of the High Court praying the Court to, on the ground set forth in the accompanying affidavit make:

- o An order of Certiorari to bring up to this Honourable Court to have quashed the decision of the 1st Respondent communicated to the Applicants on October 1, 2024, transferring them from their current posts to other parts of the country.
- o An order of injunction restraining the 1st Respondent from interfering with the posting movement and transfer of personnel of the Ghana Police Service.
- o An order of injunction restraining the 1st Respondent from further instituting any disciplinary action against the Applicants.
- o Any other Order(s) that the Honourable Court may deem fit

COURT TO BE MOVED on the 28 day of October, 2024 at 9 O'clock in the forenoon or so soon thereafter as Counsel for and on behalf of the Applicant may be heard.

DATED AT THE LAW OFFICES OF IN ACCRA THIS 28TH DAY OF OCTOBER 2024.


.....
ISSIFU KADIRI ABDUL RAUF ESQ
Sol. Lic. No.: eGAR07630/24
BP No.: P0003158233
TIN No.: P0003158233
Solicitor for the Applicant

TO:

**THE REGISTRAR
HIGH COURT
(GENERAL JURISDCITION)
ACCRA**

AND TO THE ABOVE-NAMED RESPONDENT

1 copy

**IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
(GENERAL JURISDICTION)
ACCRA- A.D. 2024**

Filed on... 11/11/24
11:50 am pm
Registry
HIGH COURT
ACCRA

SUIT NO.:

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

UNDER ARTICLE 141 OF THE 1992 CONSTITUTION

AND

ORDER 55 OF HIGH COURT (CIVIL PROCEDURE) RULES, 2004, (C.I.47)

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THE INHERENT JURISDICTION OF THE HIGH COURT

REPUBLIC

VERSUS

THE INSPECTOR GENERAL OF POLICE 1st RESPONDENT

Police Headquarters
Ring Road East, Cantonment, Ghana

THE HON. ATTORNEY GENERAL 2ND RESPONDENT

Attorney-General's Department P.O.Box M60, Ministries
Accra.

EX PARTE:

Sergeant David Nathaniel Odzeyem 1ST APPLICANT

5, Deedaw lane, Madina,
Accra.

3000084767

AFFIDAVIT IN SUPPORT OF MOTION FOR JUDICIAL REVIEW

I Sergeant David Nathaniel Odzeyem a police officer of No 5 Deedaw lane, Madina Accra. do hereby make oath and say as follows:

1. That I am the Deponent herein
2. That I am the 1st Applicant herein by which capacity I have the consent and authority of all the other Applicants to depose to this affidavit.
3. That the facts deposed to herein are matters within my personal knowledge, information and belief.
4. That the facts deposed to herein are matters within my personal knowledge, information and belief.
5. That at the hearing of this application, Counsel shall seek leave of this honourable Court to refer to all the processes filed in this matter as if same were set out in extenso herein and sworn to on oath.
6. That all the Applicants are personnel of the Ghana Police Service stationed at the Police Intelligence Directorate (PID), Police Headquarters, Accra.
7. That, the Applicants were at all times diligent in their work as personnel of the Ghana Police Service and performed all tasks assigned to them by their superiors.
8. The Respondent is the head of the Ghana Police Service and is responsible for the operational control and administration of the Ghana Police Service.
9. The Respondent in the exercise of his functions, shall be subject to the Constitution and the Police Council—which by law may by way of Constitutional Instrument make regulations for performance of its functions and the efficient administration of the Ghana Police Service.
10. Pursuant to its powers to by way of Constitutional Instrument to make regulations for the performnace of its functions and for the efficient

administration of the Ghana Police Service, the Police Counsel made the Police Service Regulations 2012 (C.I. 76) on **August 15, 2012**, to among other things provide for the creation of directorates and for the assignment and delegation of roles.

11. That, consistent with our duties as personnel of the Ghana Police Service assigned to PID, ASP Alhaji Jalil Bawa communicated to me that, the instruction of the Deputy Inspector General of Police, for me to organise a team to undertake an assignment on intelligence gathering. This was on **September 26, 2024**.
12. In line with the instruction and directive given by the Deputy Inspector General of Police, I enlisted the following men—with myself and all the other Applicants inclusive—to undertake the said assignment on intelligence gathering:
 - a. Sergeant Prince Owusu Fayosey
 - b. Sergeant Seidu Essilfie
 - c. Sergeant Alex Abah
 - d. Corporal John Yao Adzimagbor
 - e. Corporal Micheal Kwasi Avuyi
 - f. Corporal Huudu Muhammed Wumbe,
 - g. Corporal Kabiru Mohammed
 - h. Corporal Hannah Antwi- Boasiako
 - i. Sergeant Prince Owusu Fayosey.
 - j. I C/Inspector Alexander Odoi,
13. Further to the above, a meeting was held at the residence of ASP Alhaji Jalil Bawa on **September 27, 2024**, for briefing on the scope of the assignment.
14. At the meeting, all the enlisted men were present with the exception of the Sergeant Prince Owusu Fayosey, Corporal Micheal Avuyi and Corporal Huudu Muhammed Wumbe. Sergeant Seidu Essilfie, the personal driver to the Deputy Chief of Staff at the Presidency also joined the meeting albeit at the end.
15. After the briefing, ASP Alhaji Jalil Bawa tasked me to create a WhatsApp platform to enhance smooth and effective communication for the team assembled for the assignment. The platform was created on that same day and the names of the personnel enlisted to undertake the assignment added.

16. On Tuesday **October 1, 2024** at about 1400 hours GMT, the Staff Officer ASP Mr. Julius Elemawusi Zodanu called me to his office where he informed me that DCOP Mr. Frederick Kwadwo Agyei had brought in a transfer signal from the Headquarters and had been tasked to warn me since my name was on the transfer list.
17. I received the said transfer signal letter and signed same to acknowledge receipt. On taking the signal, I realised that all the men who had met at the residence of ASP/Alhaji Jalil Bawa and those added to the WhatsApp platform had been affected by the transfer with majority of the personnel transferred to remote areas in Upper West, Upper East and the Western Regions. Only one person in the name of Sergeant Alex Abah, had been transferred to the National Operations Department at the Headquarters.
18. Since the team enlisted for the assignment was at the direction and instruction of the Deputy Inspector General of Police, we informed him on **October 2, 2024** of the transfer signal wherefore he directed us not to comply with same as it was dubious and without any justification.
19. He further directed us to make an entry into the station diary which we complied.
20. Consequently, I together with , Inspector Hamid Zakariah at about **2150 hours GMT** went to the reception of the Police Intelligence Directorate and made the necessary entries in the Station Diary as directed by the Deputy Inspector General of Police indicating our failure to comply with the transfer signal.
21. On 3rd October 2024 at about 1100 hours GMT the Staff Officer/PID called to inform me that he had an important message for me. When I enquired where the message came from, he told me it was from the Chief Staff Officer. After talking to him on phone, I quickly rang Inspector Hamid Zackariah, and he told me he had also been called by the Staff Officer to report for an important message.
22. The two of us met with the Staff Officer at his office where he invited in the Acting Station Officer, Chief Inspector Maxwell Atiiru, as a witness before he started reading a message to us. As soon as he started reading, we requested that he give us the letter or a copy thereof since the content was for us, but he said there was no copy available for us.

23. We allowed him to finish reading the content of the letter, which happened to be a signal interdicting the two of us. I enquired from him the reason for our interdiction to which he stated that no reason was given for our interdiction. He asked us to sign to indicate that we had been warned of the interdiction, but we declined to sign on the grounds that no copies were made available for us.
24. Later on the same day—**October 3, 2024**—the affected personal including all the Applicants herein receiving phone calls from drivers from the Transport Unit of the Ghana Police Services with the information that we were to evacuate to our various stations with immediate effect.
25. I have been advised by Counsel and I verily believe same to be true that, the Inspector General of Police is an administrative officer whose position is a creature of statute.
26. I am also advised by Counsel and I verily believe same to be true that, the Inspector General of Police being a position created by statute, the powers of the office and the extent to which it may be exercised by the holder of the office are matters delineated by statute.
27. That I am further advised by Counsel and I verily believe same to be true that, the power to make transfers in the Ghana Police Service have been amply provided for in the Police Service Regulations 2012 (C.I. 76), which vests the authority to transfer personnel in the National Transfer Board—a body the Inspector General of Police is not even a member.
28. That I am again advised by Counsel and I verily believe same to be true that, the Respondent does not have the power or authority to unilaterally initiate a transfer of any personnel of the Ghana Police Service and that any act of the Respondent purporting to transfer the Applicants from PID is illegal and in excess of his powers under law.
29. finally, I am advised by my counsel and I verily believe same to be true that this is a proper case where this honourable Court ought to exercise its discretion and make:
 - a. An order of Judicial Review by way of certiorari directed at the 1st Respondent to show by what lawful authority he transferred the Applicants from their current posting;

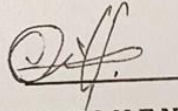
- a. In absence of such showing, issue an order of Certiorari to the 1st Respondent and his assigns to bring up to this honourable Court to have quashed its decision communicated to the Applicants on **October 1, 2024**, transferring them from their current posting;
- b. An order of injunction restraining the 1st Respondent from interfering with the posting movement and transfer of personnel of the Ghana Police Service.
- c. An order of injunction restraining the 1st Respondent from instituting further disciplinary action against the Applicants.

- d. Any other Order(s) that the honourable Court may deem fit.

WHEREFORE I swear to this affidavit in support of the motion.

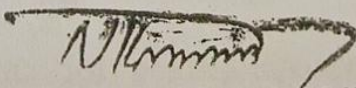
SWORN AT ACCRA}

THIS ~~8~~⁷ DAY OF ~~NOVEMBER~~^{NOVEMBER} 2024}



DEPONENT

BEFORE ME



COMMISSIONER FOR OATHS



1 copy

11.11.24
11:50 pm
[Signature]

**IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
(GENERAL JURISDICTION)
ACCRA- A.D. 2024**

SUIT NO.:

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW UNDER
ARTICLE 141 OF THE 1992 CONSTITUTION AND ORDER 55 OF HIGH COURT
(CIVIL PROCEDURE) RULES, 2004, (C.I.47) AND THE INHERENT
JURISDICTION OF THE HIGH COURT**

REPUBLIC

VERSUS

- **INSPECTOR GENERAL OF POLICE 1ST RESPONDENT**

Police Headquarters

Ring Road East, Cantonment, Accra, Ghana

- **ATTORNEY GENERAL AND MINISTER OF JUSTICE 2ND RESPONDENT**

Ministry of Justice and Attorney General's Department

P.O. Box M60, Accra.

EX PARTE:

**SERGEANT DAVID NATHANIEL ODZEYEM
5 Deedaw lane, Madina
Accra.**

1st APPLICANT

AND NINE OTHERS SPECIFIED IN THE ANNEXURE ATTACHED HERETO.

**STATEMENT OF CASE FOR AND ON BEHALF OF THE APPLICANTS IN
SUPPORT OF MOTION ON NOTICE FOR JUDICIAL REVIEW PURSUANT TO
ORDER 55 OF THE HIGH COURT (CIVIL PROCEDURE) RULES 2004, (C.I.47)
AND THE INHERENT JURISDICTION OF THE HIGH COURT**

May it please My Lord,

INTRODUCTION.

- This statement of case is in support of the Applicant's motion on notice for Judicial Review seeking the following reliefs from this Honourable Court:
- An order of Certiorari to bring up to this Honourable Court to have quashed the decision of the 1st Respondent communicated to the Applicants on October 1, 2024, transferring them from their current posts to other parts of the country
- An order of injunction restraining the 1st Respondent from further instituting any disciplinary action against the Applicants
- An order directed at the 1st Respondent to always act within the Remit of the police service regulations.

Any other Order(s) that the Honourable Court may deem fit.

At this end, the structure of the Applicant's Statement of Case shall be in the following outline;

1. Introduction;

2. Summary of facts;

3. Reliefs

Applicant's legal arguments; and

Applicant's concluding prayer.

SUMMARY OF FACTS

- The relevant facts on which the Applicants' motion for Judicial Review is based are particularly set out in the affidavit in support of the motion. Suffice to state however that: The Applicants are personnel of the Ghana Police Service stationed at the Police Intelligence Directorate (PID), Police Headquarters, Accra. However, on October 1, 2024, they were informed of their transfer by the 1st Respondent from PID to remote areas in Upper West, Upper East and the Western Regions.
- The said transfer, it is argued by the Applicants, is illegal as same is wrongful assumption of power by the Respondent and thus should be quashed by this Honourable Court.

RELIEFS

- The Applicants are, by the motion, praying your Lordship to exercise the Honourable Court's jurisdiction to grant the following reliefs:
 - An order of Certiorari to bring up to this Honourable Court to have quashed the decision of the 1st Respondent communicated to the Applicants on October 1, 2024, transferring them from their current posts to other parts of the country
 - An order of injunction restraining the 1st Respondent from interfering with the posting movement and transfer of personnel of the Ghana Police Service.
 - An order of injunction restraining the 1st Respondent from further instituting any disciplinary action against the Applicants.

Any other Order(s) that the Honourable Court may deem fit

APPLICANT'S LEGAL ARGUMENT

The writ of certiorari, fundamentally, is issued against persons, who it is claimed are usurping the power/any office or franchise, or liberty or privilege belonging to the public, the test always being whether the office is of a public nature and not merely a ministerial one, held at the will and pleasure of others (See the case of **REPUBLIC v. HIGH COURT REGISTRAR, KUMASI AND ANOTHER; EX PARTE ADOM I [1984-86] 2 GLR 606-618.**

The venerable Cecilia Koranteng Addow J in the case of **REPUBLIC v. GIHOC; EX PARTE AMARTEY KWEI & ORS. [1982-83] GLR 510** stated the principle as follows

There is no difficulty about the principles of the prerogative order of certiorari. Those principles are well-settled. They have been repeatedly stated by various text-writers on constitutional and administrative law, and discussed by eminent judges throughout the world. I only wish to refer to Halsbury's Laws of England (3rd ed.), Vol. II where the nature of certiorari is described and the scope within which the order may issue has also been defined. The order of certiorari is a means of controlling inferior courts and other persons or bodies having the legal authority to determine questions affecting the rights of subjects and requiring the duty to act judicially. As Wade put it in his book, Administrative Law (2nd ed.), "The writ of certiorari is used to bring up into the High Court the decision of some inferior tribunal or authority in order that it may be investigated and if the decision does not pass the test it is quashed." d."

The law is well settled regarding the grounds for the grant of certiorari by the courts. Certiorari will be granted to quash a decision of a court, an adjudicating body or an administrative body under any of the following conditions:

where there is lack of jurisdiction

where there is excess of jurisdiction

where there is breach of natural justice rule

where there is an apparent error on the face of the record or

Where the judgment or the order is illegal or improper

**REPUBLIC V. HIGH COURT ACCRA, EX-PARTE SALLOUN (2011) 1
LR 774]**

by Lord in the Supreme Court case of **Francis Owusu Mensah and Stephen
Adjapong vr National board for Technical and vocational
Examination (NAPTEX)**. The court speaking through Yaboah JSC (as he then was)
stated that " Any fact-finding tribunal or commission of enquiry whether statutory or
which has made any decision based on evidence affecting rights of subjects would
acting judicially " and would thus be amenable to the Supervisory Jurisdiction of the
Court." The court in the NAPTEX case Supra relied on the oft-quoted dictum of Lord MR
PERGAMON PRESS LTD [1971] 1 CH 388 at 399 where the law was stated as follows

"Seeing that their work and their report may lead to such consequences, I am clearly of the opinion that the inspectors must act fairly. This is a duty which rests on them as on other bodies even though they are not judicial or quasi-judicial but only administrative."

- It follows that the remedy of certiorari may be properly sought to set aside administrative decisions such as the one made by the 1st respondent herein purporting to transfer the applicants herein to various parts of the country.
- Applying these legal principles to the facts in the instant matter, the question is whether in purporting to transfer the applicants herein to various parts of the country the 1st respondent acted within his authority. In other words, in purporting to transfer the applicants, did the 1st respondent thereby usurp the powers conferred on another body by law?
- The office of IGP is a creature of statute by virtue of **section 4 of the Police Service Act, 1970 (Act 350)**.
- Respectfully, my Lord, the authority to effect transfers, posting and movements of personnel in the Ghana Police service is vested exclusively in the **National Transfer Board (The board)** created under the **Police Service Regulation 2012 (C.I 76) (see regulation 38 of C.I. 76)**.
- Membership of the Board has been clearly spelt out in the said regulation 38 of C.I 76. It is noteworthy that the 1st Respondent is not a member of the Board. It follows that the 1st Respondent does not have the statutory authority to effect transfers of personnel in the Ghana Police Service and any purported transfer of personnel by the 1st Respondent is ultra vires the authority or powers of the 1st Respondent.

- It is our contention that the purported transfer of the applicants by the 1st respondent was unlawful and ultra vires the authority of the 1st respondent.
- In the case of **REPUBLIC v. AKIM ABUAKWA TRADITIONAL COUNCIL; EX PARTE ANTWI AND ANOTHER [1984-86] 2 GLR 756-766** Abakah J stated as follows:

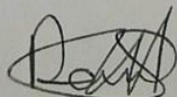
I jealously and tenaciously cling to the concept that a body, call it any name you like, which proceeds to determine matters which by statute are reserved to another body must be subject to review by certiorari

- It is, therefore, our contention that, by purporting to transfer the applicants herein, the 1st respondent usurped the function which by **regulation 38 of CI. 76** is reserved to the **National Transfer Board** and the 1st respondent illegal conduct should be subject to review by certiorari.

CONCLUDING PRAYER

- Accordingly, we pray your Lordship to adjudge and declare the prayer of reliefs first above mentioned.

DATED AT THE LAW OFFICES OF IN ACCRA THIS 28TH DAY OF OCTOBER 2024.



ISSIFU KADIRI ABDUL RAUF ESQ

Sol. Lic. No.: eGAR07630/24

BP No.: 3000084751

TIN No.: P0003158233

itor for the Applicant

:

E REGISTRAR

GH COURT

ENERAL JURISDCITION)

CRA

AND TO THE ABOVE-NAMED RESPONDENT

ANNEXURE 1

INSPR. HAMID ZAKARIA
Blk C Room 12
Osu Police Barracks
Accra

2ND APPLICANT

G/SGT. DAVID NATHANIEL ODZEYEM
5 Deedaw lane, GM- 012-1337,
Madina -ACCRA

3RD APPLICANT

G/SGT. SEIDU ESSILFIE
Continental close
Flat A2, Roman Ridge

4TH APPLICANT

G/SGT. PRINCE OWUSU FAYOSEY
Cn14 Bypass Rd
G1-004-8273
Labone

5TH APPLICANT

G/CPL. JOHN YAO ADZIMAGBOR
Cn14 Bypass Rd
G1-004-8273
Labone

6TH APPLICANT

G/CPL. HUUDU MOHAMMED WUMBE
J 61
Moli- Nukpa Cl
Ga-250-0073
Achimota

7TH APPLICANT

G/CPL. MICHAEL KWASI AVUYI
A607 Kailebist
Gb-024-7556
Ashaiman Newton/Sunrise

8TH APPLICANT

HANNAH ANTWI BOASIAKO
Coffee Street
Teshie Nungua Estate

9TH APPLICANT

MOHAMMED YUSSIF KABIRU
Cantonment Barracks Headquarters Blc 5

10TH APPLICANT