

THE OSP DESPERATELY AVOIDING THE WATERLOO OF ITS UNLAWFUL ARREST OF CECILIA ABENA DAPAAH BY AN ESCAPE THROUGH THE SIDE DOOR: BY MARTIN A. B. K. AMIDU

The Special Prosecutor, the John Ackah Blay-Miezah of our time, started preparing Ghanaians for the greatest con job, immoral, corrupt, and fraudulent swindle in the annals of Ghana's history when in the case of Special Prosecutor v Cecilia Abena Dapaah, Suit No. FT/0072/2023, High Court (Financial & Economic Crime Division 2), Accra, 31 August 2023 (Unreported), Mr. Justice Edward Twum refused to confirm the administrative freezing orders of the assets and bank accounts of Cecilia Abena Dapaah which the OSP had applied for since 8 August 2023.

Mr. Justice Twum's ruling underscoring the unlawfulness and unconstitutionality of the Rambo styled arrest, detention, search of, interrogation without the administration of any constitutional words of caution or any charge for the suspected or alleged commission of a specified corruption and corruption-related offence, constituted a binding decision in the matter for which the Special Prosecutor could not and did not appeal. The findings, decisions, and ruling by the learned judge that the Special Prosecutor had not even arrested her on any specified corruption offence and vacillated when asked by the court what specified corruption offence she had committed, demonstrated beyond any doubt that the investigation was a fishing expedition. The conduct of Kissi Agyebeng was persecutorial with the sole objective to destroy the image and reputation of Cecilia Abena Dapaah in the eyes of ordinary members of the public through deliberate leakages and exposure of the unlawful investigations to the OSP's rented special friends in the media merely for the propaganda value of a trial in the court of public opinion.

William Kissi Agyebeng, the Special Prosecutor, the former partner of Anas Aremeyaw Anas, and his media entrepreneurial friends feed on the abuse of citizens' freedoms for entertainment to sell their publications to an unsuspecting economically and emotionally distressed public. Consequently, they decided to attack not only Mr. Justice Twum who made the 31 August 2023 ruling against the Special Prosecutor, but Cecilia Abena Dapaah as well.

In tandem, the Special Prosecutor and his rented media friends for whom witch-hunting and aggravating the misery caused unlawfully to citizens sells their news reports adopted a stratagem of face saving in disobeying the orders of the High Court de-freezing the properties of Cecilia Abena Dapaah on 31 August 2023. Cecilia Abena Dapaah was again unlawfully rearrested on the premises of the OSP, her assets and bank accounts refrozen and a spurious application made on 11 September 2023 to the same court for the re-confiscation of the second purported administrative seizure and confiscation of the same assets and bank accounts ordered to be returned to her.

When the fraudulent Special Prosecutor woke up to the fact that Cecilia Abena Dapaah and her lawyers had joined issue with the Special Prosecutor and his rented media friends, he persecutorially and in abuse of the court process resorted to making and publishing spurious objections to the impartiality of Mr. Justice Twum to hear the re-confiscation application of the OSP. A trumped up and unlawful charge was brought against Cecilia Dapaah; a spurious petition was submitted to the Chief Justice to fish for a judge in the case; and a certiorari application made simultaneously to the Supreme Court all in an unlawful bid to force the hands of the suspect to submit to the OSP who had not even cautioned her for any specified corruption offence(s).

The criminal, unethical, unconstitutional, unprofessional schemes, and designs by the Special Prosecutor to cast Cecilia Abena Dapaah and the government she had served by proxy as corrupt failed when the Chief Justice turned down the OSP's petition as unmeritorious. The Supreme Court struck out the certiorari application as withdrawn for lack of merits on 29 November 2023. The disingenuous attempt by the Special Prosecutor and his rented press and media to curry favour with the public at a media conference or so called media briefing at the expense of the public purse failed miserably amidst condemnations from the Ghana Bar Association, the Judicial Service Association, citizens action groups and those sections of civil society who had not sold their independence by partnering the OSP for entrepreneurial purposes.

The Special Prosecutor appeared to have achieved a partial victory when Mr. Justice Twum who had sat as a vacation judge had to take his vacation and a new judge, Mr. Justice Nana Brew, was assigned by the Chief Justice to continue the trial of the pending cases. These consisted of the application for an order of re-confiscation of the properties; the spurious charge against Cecilia Dapaah for which the OSP had no mandate and obstructed her plea taking, and preliminary objections; and Cecilia Dapaah's application for injunction for abuse of her fundamental human rights to the presumption of innocence, and fair trial, together with other reliefs.

On the same day of the OSP's media conference on 29 November 2023 at 13:51 PM the OSP issued a press release on its website under the caption: "OSP Media Briefing" in which he concluded by proceeding to announce the commencement of investigation and corruption-risk analysis in respect of Payroll; Tema Oil Refinery; State Lands, Stool Lands and Other Vested Lands; and Cecilia Abena Dapaah. The OSP acknowledged on its website that it had "re-seized the cash sums and re-froze the bank accounts and investments and applied again to the court for confirmation. The matter is still pending." The briefing then, for the first time, states that: "the investigation became cross border and transboundary upon the claim by the persons of interest that part of the seized cash sums was transported into the jurisdiction from the United States. For this reason, the Federal Bureau of Investigation (FBI) of the United States became involved in a collaborative investigation with the OSP on the matter."

This press release exposes the fact that the OSP was on a fishing expedition and had no mandate to investigate any specified corruption and corruption-related offences under Section 79 of Act 959 in the Cecilia Abena Dapaah case. The OSP stated in vindication of Cecilia Dapaah in its press release of 29 November 2023 that:

"The investigation has been largely aimed at determining the sources of the large cash sums have the benefit of five (5) months investigations and the circumstance of the case shows that parts of the case are in the province of money laundering and structuring. The OSP does not have direct mandate in respect of money laundering therefore, the Office will be inviting the law enforcement agencies that have direct money laundering mandate for collaborative work in respect of those parts of the case."

What came out clearly in the media briefing in the nature of the press release of 29 November 2023 is that after five (5) months of investigation the case shows that parts and not all of it are in the province of money laundering and structuring. The OSP was, consequently, going to invite the agencies with direct mandate for money laundering for collaborative work in respect of those parts of the case. But the OSP was convinced that there was a part of the case involving unspecified corruption and corruption-related offences to justify a continued investigation by the OSP alone. It is upon this understanding of the 29 November 2023 press

release that the court appearances of 11 December 2023 and 22 December 2023; and subsequent court appearances of the OSP and Cecilia Abena Dapaah and her spouse can be explained.

On 12 December 2023 it was reported that the Chief Justice had replaced Mr. Justice Twum who had taken his vacation with Mr. Justice Nana Brew. On Friday, 22 December 2023, it was reported as confirmed in the High Court (Economic & Financial Crime Division), Accra, that the case dockets had been assigned by the Chief Justice to a relieving High Court judge, Mr. Justice Nana Brew. The trial had over delayed due to the abuses of the judicial process by the rogue and corrupt Special Prosecutor acting outside his mandate to try the suspect in the court of public opinion instead of the ordinary courts of the land established under the 1992 Constitution. It became clear that the Special Prosecutor who had still not cautioned or preferred any specified corruption and corruption-related offence(s) charge(s) against Cecilia Dapaah had no basis for any of the applications or charges he had brought in court against her, except the collaboration with his friends in the media and partnered civil society to continue trying and damaging her reputation and the government she served in the court of public opinion. In the presence of the corrupt and fraudulent Special Prosecutor, his authorized officer at the trial, Esther Fafa Tetteh, asked for an adjournment according to the media reportage “due to certain developments” which when resolved could affect the outcome of the case before the Court.’ Esther Fafa Tetteh was paraphrased in the Starrfm report as follows: “She said, that adjourned (sic) will help the OSP to determine the pending applications.”

Starrfm also reported that: “Justice Nana Brew, the judge who has been assigned the case dockets after Justice Edward Twum had proceeded on leave, said the court will oblige them a two-week adjournment which would be the last opportunity for the OSP to put its house in order.” The case was consequently adjourned to 11 January 2024. The stratagem of an unwarranted adjournment was deliberately used by the persecuting Kissi Agyabeng to enable him to continue the unlawful trial of Cecilia Dapaah in the court of public opinion with the court as his smokescreen for the one last opportunity to put its house in order in the application seeking a confirmation order of seizure and freezing of Cecilia Abena Dapaah’s financial assets.

On 11 January 2024 the case came on for hearing at the end of the one last opportunity granted to the OSP but it was reported on 12 January 2024 by Emmanuel Ebo Hawkson of 3 news that the High Court (Financial and Economic Crimes Division) Accra presided over by Justice Nana Brew had again adjourned the OSP application for an order confirming the second administrative freezing of the assets and bank accounts of Cecilia Abena Dapaah to 25 January 2024 after a sitting in chambers at which the Special Prosecutor was in his second court attendance within three days. Tagged to this 12 January 2024 news report was a statement that: “EIB Network’s Legal Affairs Correspondent, Murtala Inusah is reporting that, the phrase “due to certain developments” has been used in the other legs of cases pending at the General Jurisdiction 13, to seek adjournments.”

The above news report was followed four days later on 16 January 2024 with the media reportage that:

“The Human Rights Court sitting in Accra has adjourned to 1 February 2024 the case in which former Sanitation Minister, Cecilia Abena Dapaah, and her husband, Daniel Osei

Kuffuor, have filed an interlocutory injunction application against the OSP to restrain the Office from continuing to freeze Madam Dapaah's accounts and seizing cash recovered from their residence."

In the interim, the face saving and fraudulent John Ackah Blay-Miezah like deception of the public by Kissi Agyebeng, the Special Prosecutor had already been exposed on the website of the OSP as a "Half Yearly Report" of the OSP purportedly dated 29 December 2023 contained an item categorized as "Other Cases" with the first other case styled "Cecilia Abena Dapaah" consisting of five (5) paragraphs. The first of the three paragraphs under the caption "Cecilia Abena Dapaah" summarized the OSP's commencement of its witch-hunting and inquisitorial trial in the court of public opinion against Cecilia Dapaah from 23 July 2023. The second paragraph while summarizing the rejection of the OSP's application for a confirmation order by the court, and the re-seizure by the OSP of the subject matter of the order to return the properties back to Cecilia Dapaah omitted the fact that on the 11 September 2023 the OSP had made an application to the same High Court and the subsequent drama enacted by the OSP to frustrate the hearing of its own application by the court. The third paragraph then summarized the spurious allegation that led the OSP to its much publicized meeting with the FBI in October 2023 in the United States at the instance of the OSP to transform a domestic OSP unspecified corruption investigation into a "cross-border and transboundary" investigation giving rise to "a collaborative investigative work with the OSP on the matter."

The last paragraph containing the Ackah Blay-Miezah like scamming corrupt and fraudulent underpinning of the whole piece on "Cecilia Abena Dapaah" pretended to state a recent discovery which the Special Prosecutor, Kissi Agyebeng, a person who was appointed because he met the statutory criteria of "(a) Possess the relevant expertise on corruption and corruption-related matters; (b) Be of high moral character and proven integrity; and (c) Be a lawyer of at least twelve years standing at the Bar" had just discovered for the first time. The last paragraph stated that:

The investigation shows that the case is in largely the province of suspected money laundering and structuring. By operation of law, there are other law enforcement agencies which are reposed with a direct mandate in respect of money laundering and structuring. On that score, the Special Prosecutor will issue directives and further action on the matter in due course."

Without any explanation the Special Prosecutor omits the last sentence in his press release of 29 November 2023 issued exactly a month previously in which he stated that a part of the case dealt with corruption and corruption-related offences. That sentence in the press release of 29 November 2023 stated that:

"...the circumstance of the case shows that parts of the case are in the province of money laundering and structuring. The OSP does not have direct mandate in respect of money laundering therefore, the Office will be inviting the law enforcement agencies that have direct money laundering mandate for collaborative work in respect of those parts of the case."

The Half Yearly Report of the OSP was dated 29 December 2023 and presumably published on that date on its website, unless the public is again being scammed with a postdated report.

Suddenly, after the Special Prosecutor appeared in person for the in-chambers hearing of the case on 16 January 2024 and Mr. Justice Nana Brew adjourned the hearing to 1 February 2024, the rented media pretended to have become aware of the OSP's "Half Yearly Report" dated 29 December 2023 on the OSP website for months and started to give it much publicity in the mold of political propaganda to lay the foundation for the greatest fraudulent and corrupt scamming job in the annals of Ghana's history.

Under the banner headline: "Cecilia Dapaah saga: 'There are other law enforcement agencies with direct mandate in respect of money laundering' – OSP" one media house reporting through one Eric Mensah-Ayettey on 17 January 2024 thundered:

"the Office of the special Prosecutor (OSP) has stated that it will, in due course, issue directives regarding the way forward on the Cecilia Dapaah case. According to the OSP, its investigations so far indicate that the case borders on money laundering, which is outside its mandate."

A visit to the website of the OSP shows a publication captioned "2023 Half Yearly Report" on 18 January 2024 at 14:48 PM which states that: "The Office of the Special Prosecutor on Wednesday, 17 July 2023, presented its further Half Yearly Report under the leadership of the Special Prosecutor, Kissi Agyebeng. The report covers from 01 July to 31 December 2023 is submitted in accordance section 3(3) of the Office of the Special Prosecutor." Paragraph 4 of the short report states as follows:

"Several other cases are yet to proceed to full trial, including that of the former Minister for Sanitation, Cecilia Abena Dapaah. Investigations so far indicate that this case primarily resolves around suspected money laundering and structuring and may be referred to appropriate agency in due cause...."

The changing narrative shows that the corrupt and fraudulent William Kissi Agyebeng, the modern day John Ackah Blay-Miezah of our era, has assessed the inevitability of an impending waterloo in the court cases he had brought against Cecilia Abena Dapaah and the human rights and freedoms relief for injunction she brought against him for the infringement of her constitutional rights. The dismissal of corrupt Kissi Agyebeng's petition to the Chief Justice; and the striking out by the Supreme Court of the OSP's Certiorari application against the rulings and decisions of Mr. Justice Twum to the Supreme Court; and the pendency of a formidable and robust defence of Cecilia Abena Dapaah to Kissi Agyebeng's application for confirmation of his freezing of the property of Cecilia Abena Dapaah for a second time unless Mr. Justice Brew can fault the ruling of Mr. Justice Twum of 31 August 2023 bear against any success of the OSP's cases which are abuses of the court process.

Kissi Agyebeng the John Ackah Blay-Miezah occupying the position of the Special Prosecutor calculatingly and smartly confronted the reality of an unprecedented hurricane that is about to consume and expose his unlawful and personalized hounding of Cecilia Abena Dapaah and is looking for a lifesaving escape through the side door. Cecilia Abena Dapaah and her lawyers have presented a formidable answer to Kissi Agyebeng's spurious applications for an order of confirmation of his administrative seizure and freezing of her assets and investment which he know is incontestable. The inability of Kissi Agyebeng to have appealed against the flawless ruling of Mr. Justice Twum on 31 August 2023 nails him to the wall without an escape route in any court of law. The second application he brought against Cecilia Dapaah had long matured with the close of pleadings from both sides and the

case should have been disposed of long ago but for the delay tactics and abuse of the court process by fraudulent Kissi Agyebeng who unethically obstructed the cause of justice using subterfuges. Kissi Agyebeng and Cecilia Abena Dapaah together with her spouse (the parties) have crossed the Rubicon and the Court must decide the controversy brought by the Special Prosecutor on the merits to prevent a further abuse of power and mandate by the Special Prosecutor against another citizen in a like situation as Cecilia Abena Dapaah.

Kissi Agyebeng and his rented media using the public purse to persecute citizens ought not to be allowed to escape judgment day. Mrs. Victoria Barth needs no one to tell her that she will be doing a great disservice not only to Cecilia Abena Dapaah but primarily to the 1992 Constitution, the ethics of the legal profession and her integrity should she allow the fraudulent and discriminatorily corrupt Kissi Agyebeng to withdraw his matured and pending application for confirmation filed since 11 September 2023. The fraudulent grounds canvassed that after five (5) months of investigations Kissi Agyebeng has now woken up to the reality that he had no mandate to have brought the image and reputation of Cecilia Abena Dapaah into ridicule in the court of public opinion is just a scamming reason and an afterthought in the face of the potential of losing the case again. The proper procedure is for the recalcitrant and discriminatorily corrupt Kissi Agyebeng to submit to judgment in favour of Cecilia Abena Dapaah on Kissi Agyebeng's application for confirmation filed on 11 September 2023.

Mrs. Victoria Barth and her team ought to be conscious of the fact that Kissi Agyebeng has consistently abused his office, the Office of the Special Prosecutor Act, 2017 (Act 959) and the 1992 Constitution in depriving Cecilia Abena Dapaah of her presumption of innocence and tried her in the court of public opinion since 23 July 2023. Kissi Agyebeng has abused the public purse to achieve the destruction of a fellow citizen in the court of public opinion. Cecilia Abena Dapaah has on the other hand had to foot every expense of defending her integrity in a matter in which she has never been accused of any specified corruption offence under section 79 of Act 959. In the circumstances the least favour to the OSP is to insist that corrupt and fraudulent Kissi Agyebeng withdraw or discontinue his cases without liberty to come back. In any case, Mrs. Victoria Barth and her team will have a shattered reputation and integrity in the public eye should they bargain away Cecilia Abena Dapaah's human rights and freedoms injunction application instead of insisting on a full trial and judgment by the court even if conman Kissi Agyebeng withdrew or discontinued his unlawful application, and charge against her.

After the so-called joint statement published by Kissi Agyebeng of collaboration between the Judicial Service and the OSP the presence of Kissi Agyebeng in court should not create the perception that he has intimidated the courts into doing his bidding. Mrs. Victoria Barth and her team will be helping the development of democracy, the rule of law, the independence of the judiciary, and constitutionalism if they urged through cogent argument for the Court to give a full ruling on whether or not Kissi Agyebeng breached the 1992 Constitution and acted without mandate under Act 959. Otherwise, Kissi Agyebeng, the scammer can still just file a notice of discontinuance of his application to which the court and the suspect have invested so many resources and just walk away only to come back later against Cecilia Abena Dapaah with a more lethal vengeance than before. Mrs. Victoria Barth and her team must know that fraudulent and discriminatorily corrupt to the core investigators and prosecutors in the mold of Kissi Agyebeng as wounded snakes must be decapitated if they are not to return to kill their unfortunate victim the next time round. Kissi Agyebeng's incompetence and unprofessionalism has now come home to roost by the cul-de-sac he has pushed himself into

to be allowed to escape through a side door. “And help us to resist oppressor’s rule with all our will and might for evermore” in the administration of criminal justice in Ghana.

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