

COMMITTEE OF CONCERNED LAWYERS

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Commonwealth of Dominica

17th June 2020

Dame Janice M. Pereira, DBE

Chief Justice

Eastern Caribbean Supreme Court

P. O. Box 1093

Castries

St. Lucia

Dear Chief Justice,

Re: Various Petitioners v Various Elected Representatives; Case No. DOMHCV

2019/0307

We, the undersigned write to Your Ladyship in response to the letter of the Honourable Attorney General Levi A Peters addressed to Your Ladyship on the 9th day of June, 2020 in which he contends (1) that the recusal of Justice Birnie Stephenson-Brooks in the matter involving the post December 2019 election petition was the result of

surreptitious maneuvering by the Opposition and (2) in which he also challenges the suitability of local Judge, Justice Wynante Adrien-Roberts, to preside over the hearing of the ongoing election petitions.

Undoubtedly, petitions of a General Elections is of great public interest and will carry the electrical surge of a small island nation deeply divided along political lines.

The Attorney General will be reminded that there is a presumption of impartiality on the part of a sitting Judge that she will be faithful to her oath. Absent a very good reason, the Judge has a duty to sit in the cases assigned to her and ought not to recuse for trivial reasons, let alone encourage "forum shopping" by litigants. The onus of rebutting that presumption in favour of a Judge to sit lies with the person alleging the bias. Mere suspicion of bias is not enough; a real possibility must be demonstrated on the available evidence.

Despite the high evidential standard required to be met by those attempting to rebut the presumption of impartiality of a Judge, Justice Stephenson- Brooks recused herself on her own volition without giving reasons for her decisions. This did not stop the Attorney General from asserting that Justice Stephenson - Brooks was "prompted" to her decision by a "hostile public campaign calculated to instill fear and other questionable influences" over the Judge.

Given the fact that apart from Justice Stephenson-Brooks, Dominica only has only one other resident Judge, being the person of Justice Adrien-Roberts, a Dominican in her first year presiding as Judge in Dominica, she would automatically be expected to preside in place of Justice Stephenson- Brooks over the election petitions. However, the Attorney General has taken issue with Justice Adrien- Roberts presiding over the matter contending "Her Ladyship would be familiar with persons who are interested in these petitions and application to strike", a move not dissimilar in intent from what he accused the Opposition of doing in respect of Justice Stephenson-Brooks.

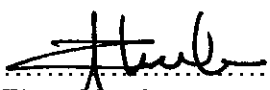
The mere fact that the local Judge was previously employed in the Public Service under this government, without more, cannot sustain an objection to her presiding over election petitions. The public must not be driven into believing that the court can be easily manipulated by a sitting government. This perception would not only destroy public confidence in Justice Adrien-Roberts personally, but it would be harmful to the public interest in having fearlessly independent Judges who are not afraid to uphold the rule of law in the administration of public affairs.

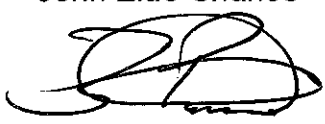
In seeking the recusal of Justice Adrien-Roberts and in writing directly to Your Ladyship, the Attorney General is attempting to intimidate the Court. The Attorney General should be reminded that there is a legal procedure for seeking the recusal of a Judge from a particular case. He should know it, but if he does not, there are younger lawyers under him who do. The procedure is put there to ensure that justice is done to both parties. There must be an application and the applicant has to give evidence by affidavit stating


the reasons for the application; and the Judge has to consider such an application as she would consider any application, fairly, according to the rules. By not following this established procedure consistent in law, the Attorney General is in danger of undermining the rule of law in Dominica.

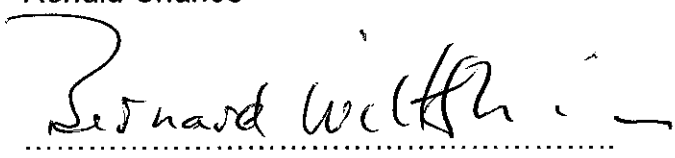
Yours faithfully,

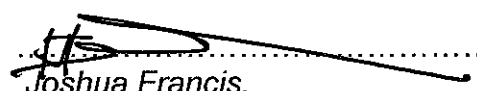

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