

FOR IMMEDIATE RELEASE

1ST JUNE 2023

HON. JAMES GYAKYE QUAYSON DECLARES INTENTION TO CONTEST THE ASSIN NORTH PARLIAMENTARY SEAT IN THE UPCOMING BY-ELECTION.

When I took the decision to put myself forward as a candidate for the 2020 Parliamentary Election in the Assin North constituency, on the ticket of the National Democratic Congress (NDC), I did so with a determination to serve the people of the constituency with all my heart, soul, body and all the resources I could muster in the service of my people. My roots in the Assin North Constituency run deep and all I wanted was the opportunity to meet the needs of my people on a larger scale. The Assin North Constituency lives in abject stagnation as a result of years of neglect.

I renounced my Canadian citizenship in December, 2019 and returned to Ghana to serve you, my people of Assin North. When I declared on my Nomination Forms in October, 2020 that I owed no allegiance to any country other than Ghana, that was, indeed, the truth. To date, no one has provided any evidence that I owed allegiance to Canada at the time I filed my nominations and when I was elected and sworn in as your Member of Parliament.

When group of people sent a petition against me to the Electoral Commission (EC) to allege that I owed allegiance to Canada, they were invited to provide evidence to support their allegations but they failed to provide any evidence of my owing allegiance to Canada beyond my having had Canadian nationality. Accordingly, the EC cleared me fit and qualified to contest and, on the 7th of December, 2020, you rose up and got me duly elected as your Member of Parliament with a resounding victory. The EC is the body the Constitution has granted the mandate to conduct public elections. What did I do wrong in going by the decision of the EC that I was duly qualified to contest the election? Has the EC been prosecuted for its determination that I did not owe allegiance to a country other than Ghana?

On 17th May, 2023, the Supreme Court of Ghana gave a ruling declaring as invalid my nomination, election and subsequent swearing in as your Member of Parliament. The Court did not give its full judgment with reasons but stated that the full judgment would be available "on or before 7th June, 2023".

The recent statement of the General Secretary of the NDC in response to the ruling expresses my view. He said: "In the light of many previous decisions that we are aware of, including decisions in cases involving Honourable J.H. Mensah, Honourable Baba Jamal and Honourable Peter Amewu that state that the Supreme Court does not have the jurisdiction to invalidate a Parliamentary election and that the High Court is where such a matter should be taken, it seems strange to us that the Supreme Court gave this decision."

To buttress this point, let me read a passage in the ruling of Justice Torkonoo in the Supreme Court when the court dismissed an application for review in the Amewu case. Her Ladyship said: “As referred to by Appau JSC on page 7 of the decision under review, **this court has settled through cases such as Yeboah v. JH Mensah [1998-99] SCGLR 492 and In Re Parliamentary Election for Wulensi Constituency Zakaria v. Nyimakan 2003-2004 1 SCGLR 1, that the effect of Section 16 of PNDC Law 284 (continued in force through Article 11(1)(d) of the Constitution) and Article 99 is that any cause of action that is in substance and reality one that questions the validity of a parliamentary election and its outcomes, must necessarily be prosecuted through a parliamentary election petition in the High Court. And neither the Supreme Court, in its several jurisdictions, nor the High Court in its various jurisdictions, has jurisdictions to grant reliefs relating to a parliamentary election without a hearing conducted via Petition to question that election in the High Court.**” (at p. 15).

Despite what Her Ladyship said has been “settled through cases”, we now have a decision of the Supreme Court that, contrary to what has been “settled”, claims to invalidate a Parliamentary election!

Let me quote another passage from the ruling of Justice Torkonoo in that same ruling in the **Amewu** case: “**By providing that the validity of elections is questioned only through a process that allows for a trial, the situation of deciding the validity of an election on the strength of a motion and affidavit evidence has been disallowed by statute and judicial interpretation on articles 33 and 99 cited above.**” (at p. 17).

Justice Dotse said in the **Baba Jamal** case that “**once the Constitution and the statutory law, namely, section 16(1) and (2) of PNDCL 284 have both provided a remedy and a forum for the adjudication of certain types of disputes, to wit, the validity of the election of a Member of Parliament, it follows that it is that forum and procedure that must be strictly applied.**” He had, earlier in that judgment, stated: “**I am therefore of the firm opinion that once the law has provided that the only valid method in PNDCL 284 by which election disputes are to be commenced is by petition as distinct from writs of summons, then it follow that, if that prescribed method or procedure is not strictly followed, what has been wrongly commenced cannot be accomplished..... once the first interested parties have failed to strictly adhere to the provisions of PNDCL 284 as will be shortly established, it follows that their action falls flat in the face of the law. This must not be countenanced by a court of law, especially the Supreme Court for that matter. This is because it is from the Supreme Court that all the other courts take direction and guidance, because of the principle of stare decisis. This application of the principle of *stare decisis* or judicial precedent does not involve an exercise of judicial discretion at all. It is what must be done, that is done; it is, in essence, mandatory.**”

Similar statements from the Supreme Court can be quoted from other cases: the JH Mensah and Wulensi constituency cases, for instance. They all say the same thing, that only through an election petition in the High Court can you question the validity of a Parliamentary Election. Why did these previous precedents not apply when it came to Assin North and James Gyakyé Quayson? Another member of the panel, Her Ladyship Prof. Henrietta Mensa-Bonsu JSC, in a public lecture delivered at the University of Professional Studies, Accra, on 27th May, 2021 also said: **“There is a clear intention on the part of the framers of the Constitution and PNDCL 284 to raise the procedure for commencement of electoral disputes to a higher pedestal or level. This level is that of a petition,.....There is a clear intention on the part of the framers of the Constitution and PNDCL 284 to raise the procedure for commencement of electoral disputes to a higher pedestal or level. This level is that of a petition”**.

I am waiting to read the full judgment of the Supreme Court, whenever it is made available, but there is no doubt that the decision, as announced on 17th May, 2023, flies in the face of many previously decided cases. We wait to see whether the words of the various Justices which I have quoted will be respected by the panel.

Having made that point, let me make it clear to everyone that the most important thing to me right now is to contest and win the bye-election which is the result of what the Supreme Court announced on 17th May, 2023. I am determined to continue serving the good people of the Assin North with all my heart, soul, body and all the resources I can muster for the benefit of my constituents. I have been deeply touched by the amazing support and encouragement from you in the constituency after the Supreme Court decision on 17th May, 2023. I was particularly moved by your show of love and support through the vigil organized by the youth at Assin Bereku on Sunday 28th May, 2023. The massive attendance showed the depth of the support and encouragement I am receiving. I was really touched.

Even before the Supreme Court decision, you, my constituents have been sending me your messages of support and encouragement, and I am deeply grateful. I have also received support and encouragement from many in this constituency and beyond (including some outside Ghana) who are not necessarily NDC members, but who continue to demonstrate their outrage at the injustice I am being subjected to in my bid to serve my people. I am grateful for all the support.

I remain eternally grateful to the leadership of the NDC for the solid support I have enjoyed from day one. The statement issued by the General Secretary of the party in response to the decision of the Supreme Court expressed this support in the following words: “even as there are serious questions about the legitimacy of this decision, (that is, the Supreme Court decision).... the leadership of the National Democratic Congress (NDC) wishes to state unequivocally that we are ready for the bye-election that is now the result of this decision. The full

weight of the party will be put behind Honourable Quayson so as to ensure an even more resounding victory for him in the upcoming bye-election". I really appreciate the confidence that the party has reposed in me.

Before I conclude, there are few observations I want to make in respect of what has happened in the courts in various motions related to my election. Right at the beginning of the election petition instituted in the High Court at Cape Coast against my election, when an application for interim injunction was brought by the Petitioner, my lawyer asked Justice Boakye to make a reference to the Supreme Court for interpretation of the provision in Article 94(2)(a) of the Constitution. Justice Boakye refused and insisted, both in his ruling granting the order of interim injunction and in his final judgment, that there was no issue of interpretation necessitating a reference to the Supreme Court. Those decisions of Justice Boakye in the High Court, Cape Coast, cannot be right once the Supreme Court is now saying that there was an issue of constitutional interpretation which gave the Supreme Court the jurisdiction that it assumed in order to make the orders it made on 17th May, 2023 against my election. You do not have to be a lawyer or legal scholar to see the clear logic of this position.

It is very striking too that the same person who, through the same lawyer, had insisted in the High Court, Cape Coast, that there was no issue of interpretation and, therefore, the High Court should proceed without making a reference to the Supreme Court, was given audience in the Supreme Court to claim that there is an issue of interpretation!

Even before this case was brought in the Supreme Court, my lawyers had also, in November 2021, asked the Court of Appeal in Cape Coast to refer the matter of interpretation to the Supreme Court. The Court of Appeal rejected that application, claiming it was premature. When my lawyers brought that decision to the Supreme Court to be quashed as patently in error, the Supreme Court, by a majority consisting of Justices Torkonoo, Kulendi and Hoenyenuga, dismissed the application. Justices Dordzie and Pwamang dissented. Why were our efforts to seek an interpretation of the Constitution blocked in the High Court, Cape Coast, the Court of Appeal, Cape Coast, and the Supreme Court itself only for the Supreme Court to assume jurisdiction in a suit brought by the very party and the very lawyer who had strongly argued previously that there was no issue of interpretation to warrant a reference to the Supreme Court?

If Justice Boakye had made a reference to the Supreme Court for interpretation in early January, 2021, as my lawyer requested, the matter could have been settled long ago and the High Court in Cape Coast would then have proceeded with a trial. Instead, Justice Boakye went on to give his final judgment without a trial. His basis for determining Canadian law was, incredibly, by reference to Wikipedia. As my lawyers have shown, Wikipedia is not a source of law in Ghana; our laws have clear provision for calling expert evidence to prove foreign law, as happened in the Jomoro constituency case.

I know that you, the people of Assin North, are ready for the bye-election. Since last year April, when the Supreme Court stopped me from performing my duties as your representative in Parliament, you have been without representation in the 8th Parliament of the 4th Republic. Like the people of the SALL Traditional Areas who are excluded from representation in this Parliament, you the people of Assin North too have been in that unacceptable situation for over a year. The bye-election, which must be held within thirty days of the decision of the Supreme Court, according to the Constitution (Article 112(5)), will bring an end to this situation.

The will of the people of Assin North must triumph. Democracy must be restored. I urge you all to come out in your numbers to vote for me so I return to Parliament and continue the work I began to do on your behalf, towards advancing the Assin North development agenda.

God bless Assin North Constituency and her people.

God bless Ghana!

signed

JAMES GYAKYE QUAYSON

[ASSIN NORTH CONSTITUENCY]

1st JUNE 2023.