



MINORITY CAUCUS

PARLIAMENT OF GHANA

Parliament House – Accra (Ghana)

20th July 2026

FOR IMMEDIATE RELEASE

STATEMENT BY THE PARLIAMENTARY MINORITY CAUCUS ON THE JUDGMENT OF THE HIGH COURT, ACCRA, IN THE CASE OF THE REPUBLIC V. BERNARD ANTWI-BOASIAKO & AKONTA MINING LIMITED

1. Opening Statement

This statement is to respond, on behalf of the Parliamentary Minority Caucus, to the judgment delivered by Justice Audrey Kocuvie-Tay of the High Court, Accra, convicting the Ashanti Regional Chairman of the New Patriotic Party, Mr. Bernard Antwi-Boasiako, popularly known as Chairman Wontumi, and Akonta Mining Limited, on two counts each under the Minerals and Mining Act, 2006 (Act 703), as amended.

We speak today not as advocates for any individual, but as custodians of a constitutional order that must apply equally to every Ghanaian, regardless of political colour. We speak from our institutional vantage point as the Minority in Parliament, whose constitutional duty is to interrogate the conduct of the State, including its prosecutorial and judicial processes, wherever the public interest so demands.

We also flag, without developing the point today, that we have serious reservations about the circumstances in which the trial court lifted Akonta Mining Limited's corporate veil and held Chairman Wontumi personally liable for acts alleged against the company. Piercing the corporate veil is an exceptional remedy, not a routine one, and the basis on which it was applied here deserves the closest scrutiny.

2. A Word of Solidarity

Before we turn to the law, we must speak to the human toll of this moment.

We extend our heartfelt solidarity to Chairman Wontumi and to his immediate and extended family, who now carry the personal weight of a twenty-year sentence and all that it means for a household and a family name. We extend that same solidarity to the good people of the New Patriotic Party in the Ashanti Region, whose Regional Chairman has been taken from active service in these circumstances, and to the entire membership of the New Patriotic Party, at home and in the diaspora, who are watching this moment with understandable pain, anxiety and anger.

We ask every member and sympathiser of our great party to draw strength from one another in this difficult period, and to do so with the discipline and dignity our party has always been known for. Grief and anger are natural. The best tribute we can pay to Chairman Wontumi and his family right now is resolve, channelled through every lawful and constitutional means available to us.

And on that point we wish to be entirely unambiguous: the Minority will do whatever is lawfully and properly within its power, through Parliament and through public advocacy, to ensure that justice is done in this matter, and to ensure that the serious defects that have robbed this judgment of its legitimacy, the denial of counsel of choice, and the wrongful refusal to refer live constitutional questions to the Supreme Court, are confronted and corrected. This is not a promise made lightly. It is a commitment we intend to keep, in full view of the public, until it is honoured.

3. Respect for the Rule of Law and Judicial Institutions

Let us be unambiguous from the outset. The Minority Caucus holds the judiciary of this Republic in the highest constitutional regard. We do not, and will not, impugn the personal integrity of Justice Kocuvie-Tay. Article 125 of the 1992 Constitution vests judicial power in the courts, and Article 127 guarantees their independence. That independence is a pillar of our democracy, and it is one the Minority has defended consistently, irrespective of which party stood in the dock.

To criticise a judgment on its legal reasoning is not to attack the judiciary; it is to participate in the very culture of legal accountability that a mature democracy requires. Judgments are tested, appealed, distinguished and debated in every serious jurisdiction on earth. What follows, therefore, is offered in that spirit, as legal and constitutional critique, not as an assault on judicial authority.



4. The Minority's Commitment to Accountability

We wish to state plainly and without equivocation:

- The Minority supports accountability.
- We support the vigorous prosecution of illegal mining, a scourge that has degraded our rivers, poisoned our water bodies and endangered the livelihoods of generations yet unborn.
- We do not seek, and have never sought, immunity for any person on the basis of political affiliation.

Nothing that follows should be read as a defence of illegal mining. Our concern is institutional. It is with the manner in which state power is exercised, and with whether that exercise is even handed.

5. A Historic Breach: The Denial of Counsel of Choice and the Ghost of Tsatsu Tsikata

We turn now to the single most troubling feature of these proceedings, one that this country has confronted before and swore, at the time, that it would never tolerate again.

We understand that judgment in this matter was delivered notwithstanding the absence of Chairman Wontumi's lead counsel, whose office had reportedly notified the court in advance of a pre-existing professional engagement outside the jurisdiction. If that is correct, it raises grave questions under Article 19(2)(g) of the Constitution, which guarantees every person charged with a criminal offence the right to be defended by a lawyer of their own choice, and under the broader fair trial guarantees of Article 19(1) and (2). The right to counsel of choice is not a courtesy extended at a court's convenience. It is a constitutional guarantee that may only be displaced in the most exceptional circumstances, and only after a court has satisfied itself that no reasonable accommodation was possible.

This nation has been here before. For years, the trial and conviction of Mr. Tsatsu Tsikata was held up by the NDC establishment, in Parliament, in the press and on the campaign trail, as the defining symbol of trampling on an accused person's right to a fair defence. It became a rallying cry. It shaped a generation's understanding of what judicial overreach looks like. We do not resolve today whether every parallel between that case and this one is exact; the facts of each differ, and it is not our role to relitigate history. But we say this without apology: a party that built years of political capital denouncing the treatment of counsel in the Tsikata trial cannot now fall silent, or worse, celebrate, when a similarly

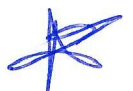


serious question arises in a case involving its political opponent. Constitutional rights are not partisan property. If the right to counsel of choice mattered in 2003, it matters in 2026, and it matters exactly as much when the accused sits on the other side of the political aisle.

What makes this history impossible to wave away is what ultimately happened to Mr. Tsikata's case. On 30th November 2016, some eight years after his conviction and five-year sentence, the Court of Appeal acquitted and discharged him on all counts, and did not mince words in doing so. The court held that the trial judge's own conduct of the proceedings, including delivering judgment while an appeal related to a pending Supreme Court question remained unresolved, and doing so without proper notice to the defence, had occasioned what the court itself called a miscarriage of justice. The Court of Appeal went further, holding that the presidential pardon Mr. Tsikata had earlier rejected could never have cured that defect, because a pardon merely lifts the burden of punishment, whereas only an acquittal restores a person's name and standing in full and wipes away every adverse finding made against him.

The lesson could not be plainer. The very case the NDC spent a decade citing as proof of judicial unfairness ended not in vindication of the trial court, but in that trial court's own procedure being condemned, by name, as a miscarriage of justice, precisely because it proceeded in a manner that short-circuited a process properly reserved for a higher court and denied the accused a fair hearing on his own terms. If that was a miscarriage of justice in 2016, the same standard cannot simply evaporate in 2026 because the accused now wears a different party's colours. We ask nothing more, and nothing less, than that the standard which cleared Mr. Tsikata's name be applied with equal rigour to the questions now raised on Chairman Wontumi's behalf.

We therefore urge Chairman Wontumi's legal team to place this issue squarely before the Court of Appeal, and we urge that court to examine, with the rigour Article 19 demands, whether the proceedings that led to this conviction were conducted in a manner consistent with the accused's fair trial rights. If those rights were compromised, no amount of confidence in the underlying facts of the case can cure the constitutional defect. Due process is not a technicality to be waived when it is politically inconvenient to enforce it. It is the whole point of having a Constitution at all.



6. Constitutional Questions and the Refusal of Referral to the Supreme Court: A Clear Case of Miscarriage of Justice

We turn to a matter of serious constitutional consequence: the trial court's dismissal of the defence's application to refer constitutional questions to the Supreme Court under Article 130 of the Constitution.

Article 130(1) vests the Supreme Court with exclusive original jurisdiction over questions of constitutional interpretation, and Article 130(2) permits, indeed contemplates, that where a genuine constitutional question arises in the course of proceedings before any other court, that court may, and in appropriate cases should, stay its hand pending determination by the apex court. The threshold question is not whether the trial judge personally regards the statutory provision as clear; it is whether a reasonably arguable constitutional question has been raised. Our courts have long held, following the reasoning in cases such as *Republic v. Special Tribunal*; *Ex Parte Akosah* and its progeny, that the referral threshold is a modest one, designed to protect litigants' access to constitutional adjudication rather than to filter out claims a lower court finds inconvenient.

Justice Kocuvie-Tay's reliance on *R v. Mainkankan* to hold that Section 99(2)(b) of Act 703 was "clear and unambiguous" and did not conflict with Article 19(11) resolves, in our respectful view, precisely the question that ought to have been reserved for the Supreme Court. A trial court that decides a constitutional question in order to justify not referring it runs the risk of substituting its own interpretive judgment for that of the only body the Constitution empowers to give a final and binding interpretation. This is not a technicality. It goes to the heart of who, under our Constitution, has the final word on what our Constitution means.

Ghana's own Supreme Court has already confronted, and decisively corrected, this precise species of error. In *Republic v. The High Court, General Jurisdiction 6, Accra*; *Ex Parte Dr. Zenator A. Rawlings*, Civil Motion No. J5/19/2016 (18th July 2016), a High Court judge was faced with a genuine dispute over the meaning of Article 94(1)(a) of the Constitution, concerning when the eligibility criteria for Members of Parliament come into effect. Rather than referring that question to the Supreme Court, the trial judge proceeded to rule on the underlying application in a manner that assumed his own answer to the constitutional question. The Supreme Court, invoking its supervisory jurisdiction under Article 132, granted an order of certiorari quashing that ruling on the express ground that the High Court had wrongfully assumed jurisdiction to interpret and define the scope of a constitutional provision. So central did the Supreme Court consider the point that it went on to raise the interpretive question *suo motu* and answer it itself, precisely because, in the Court's own words, "the High Court had failed to make the reference."

The parallel to the present case is exact, not merely analogous. In both cases, a High Court judge was presented with a live, contested question of constitutional interpretation. In both cases, the judge concluded, on his or her own reasoning, that the answer was sufficiently clear to be resolved without troubling the Supreme Court. And in both cases, that very act of concluding the provision was "clear" was itself an exercise of the interpretive jurisdiction the Constitution reserves exclusively to the apex court. The Supreme Court's holding in the Zanetor case forecloses any suggestion that a trial judge may lawfully make that determination for herself. Once a reasonably arguable constitutional question has been raised by counsel, as it plainly was here, the decision that the provision is "clear and unambiguous" is not a preliminary housekeeping matter for the trial court; it is the constitutional question, and it belongs to the Supreme Court alone.

On this authority, we say plainly, and without hesitation, that Justice Kocuvie-Tay's refusal to refer the constitutional questions raised by counsel for Chairman Wontumi, and her decision instead to resolve those questions herself, amounts to precisely the wrongful assumption of jurisdiction that our Supreme Court corrected by certiorari in the Zanetor case. This is not a mere irregularity to be absorbed into the general run of the trial. Where a court convicts and sentences a citizen to twenty years' imprisonment after wrongly retaining, for itself, a question the Constitution reserves for the Supreme Court, the resulting judgment is not merely open to criticism; it rests on a jurisdictional defect capable of vitiating the entire proceeding. That is why our law recognises certiorari as the remedy for exactly this defect, and it is why we say, deliberately and advisedly, that this judgment reflects a miscarriage of justice correctable on appeal or by application for certiorari before the Supreme Court itself if necessary.

This is not an abstract or borrowed formulation on our part. It is the very language our own Court of Appeal used in 2016 to acquit and discharge Mr. Tsatsu Tsikata, after finding that a trial judge's decision to proceed to judgment ahead of an unresolved question properly belonging to a higher court had occasioned a miscarriage of justice. Between the Zanetor's authority on wrongful assumption of constitutional jurisdiction and the Tsikata authority on the consequences of bypassing a process reserved for a superior court, Ghanaian law already supplies a complete and coherent basis on which this conviction must be tested, and, in our respectful submission, cannot stand unless and until that testing takes place.



7. Selective Justice: A Tale of Two Standards

We invite the public to place this judgment alongside other matters currently before, or curiously absent from, our courts, because the contrast speaks for itself.

It is a foundational principle of constitutional democracy, recognised in this jurisdiction and across every mature common law system, that the coercive machinery of the State must never be wielded as a partisan weapon. Equal protection before the law, guaranteed under Article 17 of the Constitution, is meaningless if prosecutorial discretion is exercised unevenly across the political divide.

On 15th July 2025, the Attorney-General and Minister for Justice, Dr. Dominic Akuritinga Ayine, wrote formally to the Executive Director of the Economic and Organised Crime Office directing an investigation into Mr. Joseph Yamin, the governing party's National Organiser, and Mr. Yakubu Abanga, its National Vice Chairman, over allegations of illegal mining. That directive invoked the same statute, the same national concern for water bodies and forest reserves, and the same rhetoric of governmental resolve that framed the prosecution of Chairman Wontumi. Yet months later, the public has been offered no comparable update on charges, arraignment or trial dates for either gentlemen. We ask, respectfully: where does that file stand today, and why has it not moved with anything approaching the speed of the Wontumi prosecution?

We note also the case reported by investigative journalists concerning the Member of Parliament for Prestea Huni Valley, who, on his own letter to the Electricity Company of Ghana dated 28th March 2025, acknowledged personally overseeing a mining site at Apinto at the instruction of National Security, following the reported takeover of a licensed concession from its lawful owners, RMG Mining Limited, and its conversion into what reporters described as an illegal galamsey operation involving unauthorised foreign nationals. To date, no prosecution of anyone connected with that takeover has been brought before the courts, notwithstanding reports that the legitimate concession holders have been unable to return to their own site for months.

By contrast, we note that in November 2025 the Member of Parliament for Asutifi North was arraigned over an alleged obstruction of an anti-galamsey task force and was promptly granted bail of GHC150,000 with reporting conditions, a markedly different trajectory from the twenty-year custodial sentence handed down in this case, even allowing for the material differences between the offences charged. We make no complaint about the granting of bail in that matter; bail is a constitutional entitlement, and we cite it only to illustrate the very different tempo and character of state action depending on whose conduct is under scrutiny.



Taken together, a stalled investigation into the ruling party's own national officers, an unprosecuted takeover of a licensed concession implicating a sitting government MP, and the markedly different pace of state action in each instance, this pattern is more than sufficient to sustain the reasonable perception that the machinery of prosecution moves fastest, and lands hardest, when it is pointed at the political opposition. A government that is serious about ending selective justice must be prepared to prosecute its own with the same vigour it has shown here.

8. Why the Judgment Raises Serious Democratic and Rule-of-Law Concerns

The refusal of referral matters far beyond this single case. If trial courts may decline referral whenever they are personally persuaded of their own correctness, Article 130 is rendered a dead letter, accessible in theory, illusory in practice. This has consequences for every citizen, not merely Chairman Wontumi:

- It risks inconsistent interpretation of constitutional provisions across different courts and different cases.
- It weakens public confidence that constitutional rights will receive authoritative, rather than merely convenient, adjudication.
- It sets a precedent that could be invoked, by prosecutors and trial courts alike, to insulate future convictions, involving persons of any political persuasion, from constitutional scrutiny.

We raise this not to defend one man's conviction, but to defend the integrity of a constitutional mechanism that protects every Ghanaian who may one day need the Supreme Court's protection against government overreach.

9. Implications for Constitutional Governance and Political Competition

A democracy survives on the confidence of the losing side that the rules of the game are fair. When the leadership of a political party, any party, perceives that prosecutorial and judicial processes are being deployed with an uneven hand against it, the damage is not confined to that party. It corrodes public trust in institutions that must outlive any single administration.

We say to the government benches: we will not remain silent while institutions that are meant to be neutral arbiters risk being perceived as instruments of political survival. Political pluralism, the ability of opposition figures to compete,



organise and lead without fear of selective legal targeting, is not a partisan demand. It is a constitutional guarantee under Article 3 and the entire architecture of our multi-party democracy.

10. Call for Judicial and Prosecutorial Fairness

We therefore call upon:

- a. The Office of the Attorney-General to publish, as a matter of transparency, its enforcement record on illegal mining across the political spectrum, including the current status of the Yamin/Abanga investigation and the Apinto concession takeover, so that the public may judge for itself whether enforcement has been even handed.
- b. The Court of Appeal to give full and rigorous consideration to any ground of appeal raising the absence of counsel of choice and the associated fair trial concerns under Article 19, and to any application for certiorari grounded in the trial court's refusal to refer the Article 19(11) question to the Supreme Court, mindful of this Court's own precedent in the Zanetor case that such a refusal is a wrongful assumption of jurisdiction, not a mere irregularity.
- c. The Judiciary to reaffirm, through appropriate guidance, the modest threshold for constitutional referral under Article 130, so that trial courts do not inadvertently narrow citizens' access to the Supreme Court, and, in framing that guidance, to have express regard to the Supreme Court's own decision in *Republic v. The High Court, General Jurisdiction 6, Accra; Ex Parte Dr. Zenator A. Rawlings*, which already sets out the standard trial courts must follow.
- d. All Ghanaians, regardless of party, to insist on consistency: that the standard applied to one mining concession be applied to all; that the standard applied to one political actor be applied to all; and that the standard which cleared Mr. Tsatsu Tsikata's name in 2016, after his trial was found to have occasioned a miscarriage of justice, be demanded, with equal conviction, today.



11. Conclusion and Way Forward

Let us be clear about what this statement is, and what it is not. It is not an attack on Justice Kocuvie-Tay or the judiciary as an institution.

It is a call for consistency. It is a call for constitutional fidelity. It is a call for the kind of even handed, transparent justice system that inspires confidence across the political divide, not merely within it. And it is, specifically, a call to honour the same standard on counsel of choice and fair trial rights that this country once insisted upon so loudly, regardless of whose name appears on the charge sheet.

To Chairman Wontumi's family, to the New Patriotic Party in Ashanti, and to our party members at home and abroad, we say again: you are not alone in this, and your pain is shared. The Minority Caucus will continue to monitor this matter, including any appeal, and will pursue every lawful and constitutional avenue available to us to see that justice is done and that the defects that have robbed this judgment of its legitimacy are addressed, fully, transparently and without fear. We will continue to advocate, as we do for every citizen, of every party, for a Ghana in which the law is a shield for all and a sword for none.

Chairman Wontumi is a **POLITICAL PRISONER!!!**

End



OSAHEN ALEXANDER KWAMENA AFENYO-MARKIN
MINORITY LEADER