

The People's Justice:
Supreme Court Defends Fair Hearing in Kevin Taylor Ruling

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A Landmark Check on Judicial Overreach

The Supreme Court's 4:1 majority decision in *The Republic v. High Court (Commercial Division), Ex Parte Kevin Ekow Taylor* is a landmark ruling that reinforces the constitutional balance between judicial authority and individual rights. The judgment is a compelling affirmation that the court's contempt powers, though vital to preserving the dignity and authority of the judiciary, must be exercised strictly within the bounds of due process and natural justice.

By quashing the High Court's warrant of arrest against the US-based social media commentator, the apex court has sent a clear message: judicial power is not absolute, and its exercise must always be tempered by fairness, restraint, and adherence to procedural safeguards. **This decision is sound in law, principled in reasoning, and protective of the rights of all individuals who might otherwise be vulnerable to an arbitrary exercise of summary contempt powers.**

Core Legal Principles Upheld

At the heart of the ruling is the court's emphatic application of the *audi alteram partem* rule, a cornerstone of natural justice which demands that no person should be condemned without being given an opportunity to be heard. The High Court, presided over by Justice Eric Kyei Baffour (JA) sitting as an additional High Court Judge, had issued a warrant for Taylor's arrest over a social media video

alleged to be “prima facie contemptuous” and scandalising the court. However, the Supreme Court found that no summons had been served and no opportunity had been afforded to Taylor to respond before the arrest order was made.

The Supreme Court rightly held that such a process amounted to a breach of the rules of natural justice, rendering the warrant a nullity *ab initio*, void from the outset and issued without jurisdiction. Crucially, the court’s decision affirms that an order made without jurisdiction can be challenged and set aside at any time, a principle that provides a lasting shield against unconstitutional judicial action.

Restraint in the Exercise of Contempt Powers

The judgment also carries a cautionary undertone for the judiciary. The Supreme Court emphasised that judicial officers must exercise restraint when invoking contempt powers, particularly in cases involving freedom of speech. The ruling highlighted that the dignity of the bench cannot be upheld at the expense of a citizen's constitutional right to a fair hearing. This aligns with the broader constitutional principle that judicial authority is derived from the people and must be wielded to promote justice and impartiality.

The decision underscores the critical distinction between contempt *in facie curiae* (in the face of the court) and contempt *ex facie curiae* (outside the court). For contempt committed outside the courtroom, as in Taylor's case, a formal and fair procedure is not merely a technicality but a fundamental requirement.

Recommendations for Procedural Reform

This case exposes procedural gaps in the rules governing contempt proceedings and offers a timely opportunity for the Rules of Court Committee to codify safeguards against arbitrary judicial action. Recommended reforms include:

- **Mandatory Summons Before Warrant:** Rules should explicitly require that a summons be issued and served before any arrest warrant in a contempt matter. A warrant should only follow if the alleged contemnor disobeys the summons or is proven to be evading the court's jurisdiction.
- **Full Disclosure of Evidence:** The summons must be accompanied by all material evidence, videos, publications, or transcripts—forming the basis of the contempt allegation. This ensures the accused can prepare a full and meaningful defence, in line with the *audi alteram partem* principle.
- **Recusal in Cases of Personal Scandal:** In instances of contempt *ex facie curiae* where a judge is personally scandalised, the matter should be referred to a different judge to avoid any perception of bias and to preserve the integrity of the proceedings.
- **Precise Definition of "Scandalising the Court":** The Rules of Court Committee should articulate clear, objective parameters for what constitutes contempt by scandalising the court. This would curb the potential to punish criticism or expression that, though perhaps offensive, does not genuinely impair the administration of justice.
- **Clear Distinction Between Bench Warrants and Original Arrest Warrants:** Procedural rules must differentiate between a bench warrant, issued for failure to appear after a summons, and an original warrant for arrest. The High Court's approach in this case blurred this distinction and was correctly found to be irregular.

Conclusion

The Supreme Court's decision is a decisive step toward safeguarding constitutional rights while preserving judicial dignity. It serves as a critical reminder that the majesty of the law is best upheld not by swift punitive

measures, but by scrupulous adherence to due process. In reinforcing that justice must not only be done but be manifestly seen to be done, the court has strengthened public confidence in the judiciary and reaffirmed that no judicial power is beyond the reach of constitutional accountability.