

APPENDIX "B"

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 22-CV-0857

CHARLES AWUSIN INKO-TARIAH, APPELLANT,

v.

ROYCE C. LAMBERTH, *et al.*, APPELLEES.

Appeal from the Superior Court
of the District of Columbia
(2022-CA-003624-B)

(Hon. Heidi M. Pasichow, Trial Judge)

(Submitted September 19, 2023)

Decided December 29, 2023)

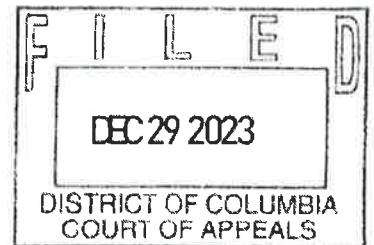
Before EASTERLY and MCLEESE, *Associate Judges*, and RUIZ, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Charles Awusin Inko-Tariah appeals from the trial court's dismissal of his complaint. Appellant claims that, while in custody, his civil rights were violated when two federal judges, Royce C. Lamberth and Henry H. Kennedy, Jr., did not take action after appellant informed them of alleged abuse by Federal Bureau of Prisons staff. We agree with the trial court that the claim against the appellees is barred by judicial immunity, and therefore affirm the trial court's dismissal of the complaint for failure to state a claim upon which relief can be granted.

I. Procedural History

Appellant Inko-Tariah filed a complaint against appellees Judge Royce C. Lamberth and Judge Henry H. Kennedy, Jr., Judges of the United States District Court for the District of Columbia, on August 15, 2022. Before appellees responded to the complaint, appellant moved for summary judgment on October 18, 2022. Without notifying appellant of its intent to do so or requesting a response from appellees, the Superior Court issued an order *sua sponte* dismissing the complaint for failure to state a claim upon which relief can be granted on October 21, 2022. Appellant notes an appeal from the order dismissing his complaint.



II. Standard of Review

The trial court dismissed the complaint under Rule 41(b), which allows for involuntary dismissal by the court *sua sponte* where the plaintiff fails “to comply with these rules or a court order.” Super. Ct. Civ. R. 41(b)(1)(A). In doing so, the trial court applied the well-settled standard for a Rule 12(b)(6) dismissal for failure to state a claim. We review such dismissals *de novo*. *Martin v. Santorini Cap., LLC*, 236 A.3d 386, 395 (D.C. 2020). In our review, “[w]e accept the allegations in the complaint as true, and we construe all facts and inferences in favor of the plaintiff.” *Id.* We must affirm such a dismissal where a complaint does not “contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Potomac Dev. Corp. v. District of Columbia*, 28 A.3d 531, 544 (D.C. 2011) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)) (internal quotation marks omitted).

III. Analysis

Although the trial court invoked Rule 41(b) in its order of dismissal, we do not address the propriety of using that rule to dismiss a complaint for failure to state a claim. Rule 12(b)(6), also invoked by the trial court, expressly addresses such dismissals. Although dismissal under Rule 12(b)(6) is usually initiated by motion, *see* Super. Ct. Civ. R. 12(b)(6), this court has stated that a trial court may dismiss a complaint for failure to state a claim *sua sponte*. *See McBryde v. Amoco Oil Co.*, 404 A.2d 200, 203 (D.C. 1979). Such an action should be taken “very infrequently and with an abundance of caution,” including giving notice to the plaintiff and providing an opportunity to amend the complaint. *Id.*; *see Epps v. Vogel*, 454 A.2d 320, 324-325 (D.C. 1982) (reversing *sua sponte* dismissal where trial court did not explain reasons for not granting leave to amend the complaint and there had been substantive changes in requirements for stating a claim). The D.C. Circuit, applying the federal equivalent Rule 12(b)(6), has explained that *sua sponte* dismissal is not precluded by the Rule and that failure to afford notice and opportunity to oppose dismissal is not grounds for reversal “where the claimant cannot possibly win relief.” *Baker v. Dir., U.S. Parole Comm'n*, 916 F.2d 725, 726 (D.C. Cir. 1990) (quoting *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987); *see also Bible Way Church of Our Lord Jesus Christ of the Apostolic Faith of Washington, D.C. v. Beards*, 680 A.2d 419, 427 n.5 (D.C. 1996) (interpretation of equivalent federal rule is persuasive authority for interpretation of D.C. rules)).

This is such a case. It is a longstanding principle that judges have “immunity from liability for acts done in their judicial capacity if the particular act at issue is a ‘judicial act.’” *Cunningham v. District of Columbia*, 584 A.2d 573, 576 (D.C. 1990)

(quoting *Stanton v. Chase*, 497 A.2d 1066, 1068 (D.C. 1985)). “[T]he factors determining whether an act by a judge is a ‘judicial’ one relate to the nature of the act itself, *i.e.*, whether it is a function normally performed by a judge, and the expectations of the parties, *i.e.*, whether they dealt with the judge in his official capacity.” *Id.* (quoting *Stump v. Sparkman*, 435 U.S. 349, 362 (1978)).

Appellant’s complaint alleged that, on multiple occasions, appellant “brought to the attention” of both appellees that Bureau of Prisons authorities made attempts on his life while he was in their custody as part of a “sinister murder conspiracy,” and that appellees took no action in response. Appellant further alleged that, after being informed of the murder plot, Judge Lamberth was “nonchalantly indifferent” in one instance and Judge Kennedy “looked the other way acting like an ‘ostrich’” in another. As the trial court noted, appellant’s complaint does not clarify exactly when or how he informed the appellees of the purported abuse. However, it is clear that all of the allegations against appellees pertained to their roles as federal judges presiding over appellant’s cases. Appellant’s complaint states that “Defendant Royce C. Lamberth and Defendant Henry H. Kennedy, Jr as *presiding federal judges* were properly informed and made aware of the sinister plot” (emphasis added). Appellees’ responses, or lack thereof, to the allegations were therefore judicial acts because they were taken in the course of a request addressed to them in their role as presiding judges, which is clearly part of their “official capacit[ies].” *Cunningham*, 584 A.2d at 576. Therefore, even accepting the complaint’s allegations to be true, the existing record is clear that the trial court could not have granted any relief because the actions alleged in the complaint were judicial acts protected from liability by judicial immunity. *See id.*¹

In sum, we conclude, as did the trial court, that appellant failed to state a claim upon which relief can be granted because the appellees’ alleged actions were protected by judicial immunity. As a result, we affirm the trial court’s sua sponte

¹ Appellant’s complaint claims that appellees were sued in their “individual and official capacity.” But there are no facts alleged in the complaint to support the assertion that appellees were sued in their individual capacities. Merely saying so, without supporting factual allegations, is insufficient to overcome appellees’ judicial immunity. Nor are there any additional facts alleged in appellant’s complaint to indicate that leave to amend the complaint should have been granted to permit claims against appellees in their individual capacity. To the contrary, appellant’s complaint reiterates that he informed appellees of the alleged sinister plots against him in their capacity as “presiding federal judges.”

dismissal of the complaint.

So ordered.

ENTERED BY DIRECTION OF THE COURT:

V.M.Roberson for
JULIO A. CASTILLO
Clerk of the Court

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Honorable Heidi M. Pasichow

Director, Civil Division
QMU

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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

CHARLES AWUSIN INKO-TARIAH, : Case No. 2022 CA 003624 B
Plaintiff, :
: :
v. : Judge Heidi M. Pasichow
: :
ROYCE C. LAMBERTH, et al., :
Defendants. :
:

ORDER SUA SPONTE DISMISSING PLAINTIFF'S COMPLAINT

This matter comes before the Court based upon the Court's review of the docket. Plaintiff is proceeding *pro-se* and *in forma pauperis*. Defendant has not entered an appearance.

I. Procedural History

On August 15, 2022, Plaintiff Charles Awusin Inko-Tariah filed a Complaint against Defendants Judge Royce C. Lamberth and Retired Judge Henry H. Kennedy, Jr. On August 15, 2022, Plaintiff filed a Motion for Jury Trial Under 7th Amendment. On August 25, 2022, the Court served Defendants with the Initial Order and Addendum, Summons, and Complaint. On September 9, 2022, Plaintiff filed two Affidavits of Service indicating that Defendants were served by certified or registered mail. On October 18, 2022, Plaintiff filed a Motion for Summary Judgment Under Rule 56(c).

II. Legal Standard

District of Columbia Super. Ct. Civ. R. 12(b)(6) allows a defendant to file a motion to dismiss alleging Plaintiff's "failure to state a claim upon which relief can be granted." To survive a motion to dismiss, a complaint must allege "sufficient facts to establish the elements of a legally cognizable claim." *Bell v. First Invs. Servicing Corp.*, 256 A.3d 246, 251 (D.C. 2021) (quoting *Woods v. District of Columbia*, 63 A.3d 551, 553–53 (D.C. 2013)). Super. Ct. Civ. R. 8(a)(2) provides more guidance, stating that a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief."

The court must accept "all of the allegations in the complaint as true and must construe all facts and inferences in favor of the plaintiff." *Boyd v. Kilpatrick Townsend & Stockton*, 164 A.3d 72, 78 (D.C.

2017) (quoting *Murray v. Wells Fargo Home Mortg.*, 953 A.2d 308, 316 (D.C. 2008)). However, “[b]are allegations” that are “no more than conclusions are not entitled to the assumption of truth” and are not enough to survive a motion to dismiss. *Bereston v. UHS of Delaware, Inc.*, 180 A.3d 95, 99 (D.C. 2018) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). The District of Columbia Superior Court adopted the *Iqbal* plausibility standard, which states that a complaint survives a motion to dismiss if the allegations in the complaint “plausibly give rise to an entitlement to relief.” *Potomac Dev. Corp. v. District of Columbia*, 28 A.3d 531, 544 (D.C. 2017) (quoting *Iqbal*, 556 U.S. at 659).

When deciding a motion to dismiss, a court generally cannot consider matters “outside the pleadings unless it treats the motion as one for summary judgment.” *Equal Rights Ctr. v. Props. Int'l.*, 110 A.3d 599, 603 (D.C. 2015). However, a court can consider documents “referenced in the complaint” that are “central to [a plaintiff's] claim” when deciding a motion to dismiss without converting the motion to a motion for summary judgment. *Caglioti v. Dist. Hosp. Partners, LP*, 933 A.2d 800, 807 (D.C. 2007) (explaining that court could consider documents discussed at length in the amended complaint when deciding a motion to dismiss). Further, the court can properly rely on public records when deciding a motion to dismiss without the motion to dismiss converting to a motion for summary judgment. *Drake v. McNair*, 993 A.2d 607, 616 (D.C. 2010) (explaining that the court can properly rely on public land records (deeds) without having to consider the motion as a motion for summary judgment).

III. Analysis

In the Complaint, Plaintiff alleges that Defendant Judge Lamberth was “nonchalantly indifferent” when informed by Plaintiff of two alleged attempts on Plaintiff's life by prison authorities and staff. Compl. at 1. According to Plaintiff, in January 2013, Plaintiff notified Judge Lamberth that while incarcerated, prison staff—including a warden and several psychiatrists—attempted to murder Plaintiff by “mob-lynching.” *Id.* Additionally, Plaintiff argues that Judge Lamberth “was made aware that staff and authorities placed poison in inmate foods, drugs, coffees, and fruit secretly injected while Plaintiff was placed in solitary confinement” between March 3, 2004 and June 8, 2004. *Id.* at 2. Similarly, Plaintiff alleges that Defendant Judge Kennedy—who it appears was the Judge who sentenced Plaintiff in a

separate criminal matter—was “also informed but failed to take action or warn them to stop.” *Id.* at 1.

Plaintiff seeks damages under 42 U.S.C. § 1986. *Id.*

“District of Columbia case law accords judges immunity from liability for acts done in their judicial capacity if the particular act at issue is a ‘judicial act.’” *Cunningham v. District of Columbia*, 584 A.2d 573, 576 (D.C. 1990) (citing *Stanton v. Chase*, 974 A.2d 1066, 1068 (D.C. 1985)). Although “judicial act” is difficult to define, the Court of Appeals adopted the definition proffered by the Supreme Court in *Stump v. Sparkman*, 435 U.S. 349, 362 (1978): “The relevant cases demonstrate that the factors determining whether an act by a judge is a ‘judicial’ one relate to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and the expectations of the parties, i.e., whether they dealt with the judge in his official capacity.” *Cunningham*, 584 A.2d at 576 (quoting *Stump*, 435 U.S. at 362).

In the operative Complaint, Plaintiff alleges that Defendants—particularly Judge Lamberth—were “nonchalantly indifferent” to Plaintiff’s information, and “act[ed] like an ostrich,” by “fail[ing] to take action.” Compl. at 1-2. It is unclear from the Complaint how exactly Plaintiff informed Judge Lamberth and Judge Kennedy of his allegations against Bureau of Prison staff, or how exactly Judges Lamberth and Kennedy did, or did not, respond to the allegations. Even still, both Judges were acting within their judicial capacity when deciding to respond, or not respond, to Plaintiff’s allegations. This is squarely within the definition of a “judicial act.” Plaintiff may be disappointed in the Judges’ decisions to not take action, but discontent does not overcome the jurisdictional hurdle. *Cunningham*, 584 A.2d at 576 (holding judicial immunity is not applicable if the Judge acted in the “clear absence of all jurisdiction”). Judge Lamberth and Judge Kenendy’s alleged actions, therefore, are protected by the doctrine of judicial immunity. Thus, Plaintiff has failed to state a claim on which relief can be granted and the Court, therefore, dismisses the Complaint under Rule 41(b) for failure to state a claim for which relief can be granted. Additionally, the Court denies as moot Plaintiff’s Motion for Jury Trial Under 7th Amendment, and Plaintiff’s Motion for Summary Judgment Under Rule 56(c).¹

¹ The Court also notes that Plaintiff’s Motion for Summary Judgment is premature. In the Motion, filed October 18, 2022, Plaintiff alleges that Defendants’ deadline to respond to the Complaint was October 15, 2022. This is

IV. Conclusion

For updates on DC Superior Court's available resources and protocol in handling the ongoing coronavirus please continue to check: <https://www.dccourts.gov/coronavirus>.

For updates on Superior Court's transition to a new filing and docketing system and its impact on the Court's operations, please refer to the Chief Judge's Administrative Order 22-28, accessible at <https://www.dccourts.gov/superior-court/administrative-orders>. Please be advised that any documents filed with the Court between October 24, 2022, and October 30, 2022, may only be filed by delivering a physical copy to the Clerk's Office. If parties decide to file documents with the Court by way of submitting paper copies to the Clerk's Office, please also provide a courtesy copy to Chambers via mail or email at JudgePasichowChambers@dcsc.gov.

For the foregoing reasons, it is this 21st day of October 2022, hereby

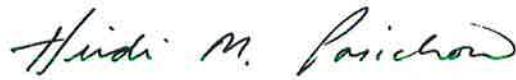
ORDERED that Plaintiff's Complaint is **DISMISSED**; it is,

FURTHER ORDERED that Plaintiff's Motion for Jury Trial Under 7th Amendment is **DISMISSED AS MOOT**; it is,

FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is **DISMISSED AS MOOT**; it is,

FURTHER ORDERED that the parties Initial Scheduling Conference scheduled for November 18, 2022, at 9:30 a.m. is **VACATED**; and it is,

FURTHER ORDERED that the case is **CLOSED**.



Heidi M. Pasichow
Associate Judge
(Signed in Chambers)

Copies mailed to:

incorrect. As far as the Court can tell, Defendants acknowledge service on August 25, 2022. Under Superior Court Civil Rule 12(a)(2) and 12(a)(3), an officer of the United States has 60 days after service within which to file an Answer or responsive pleading. Judge Lamberth and Judge Kennedy, therefore, have until October 24, 2022, to Answer the Complaint, and thus, the Motion for Summary Judgment is not ripe but now denied as moot.

Charles Awusin Inko-Tariah
P.O. Box 29074
Washington, D.C. 20017
Pro se Plaintiff

The Honorable Royce C. Lamberth
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001
Defendant

The Honorable Henry H. Kennedy, Jr. (Ret.)
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001
Defendant

Chasing and Kindle
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APPENDIX D1



Charles Awusin Inkoo-Tariah
was orphaned at 3 months old
(March 1966) survived Nigeria
brutal civil war with secessionist
Republic of Biafra (1967-1970)
abandoned by mother to relatives
at 2 years old (1968) became
deaf/blind at age 4 years old
(1970) after recovering from
a severe illness a couple of times.

He attended mainstream primary and secondary
schools then embarked on 99% trial and error self-
education unaided for 12 years 1970-1982. He worked
in a renowned French bank - Societe Generale, Lagos
Nigeria as clerk-typist 1986-1990 before attending
Gallaudet University, Washington, DC USA 1992 but
ended up ensnared in the U.S criminal justice system
for 25 years 1994-2018 for arson havoc disrupting subway
7-31-98 protesting great injustice of politically-
motivated kidnapping, police brutality and conspiracy
to frame him in murder at Norfolk, Virginia 10-3-92.

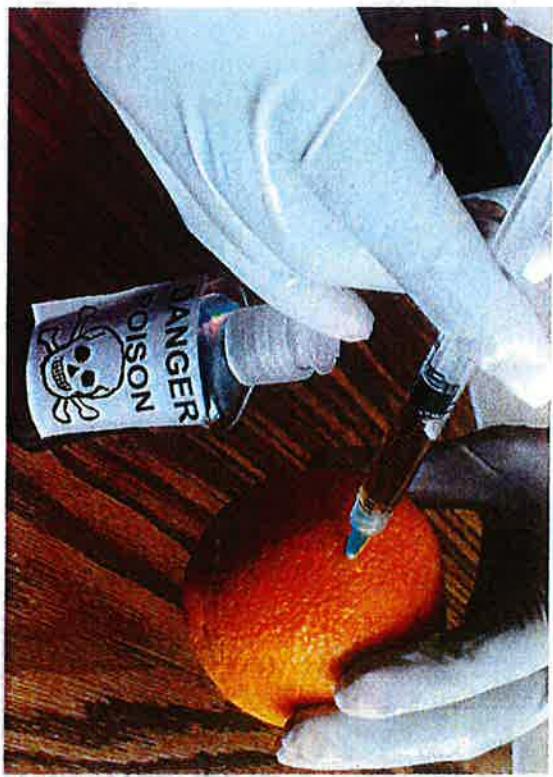
Help solve this mystery. Charles Awusin father died
of orange poisoning Lagos, Nigeria March 1966 and
exactly 38 years later, March 4, 2004 he too faced a
poisoned orange at Federal Medical Center, Butner,
North Carolina, USA. Is it fate? History repeats
itself like Horus, Seth and Osiris of ancient Egyptian
drama. There are many parallels between him and
Yahshua (Jesus Christ) and Horus (both were blinded in
the left eye). He and Jesus were aged 33 at the
time of public trial and experienced death,
resurrection and rebirth. Both were under the reign
of Rome and America, the most powerful nations in the
ancient and modern world.

Charles Awusin Inkoo-Tariah

AMERICAN EVIL EMPIRE

AMERICAN EVIL EMPIRE

*Rumbling at the Jungle. Warden and 40 BOP
officials plot to murder "The Tragic-Hero"
(Orphaned Deaf, Speech-Impaired & One-Eyed)
civilly committed inmate at Federal Medical
Center, Butner, North Carolina USA*



Charles Awusin Inkoo-Tariah



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Charles Awusin Inko-Tariah (born 1965, Port-Harcourt, Nigeria) is single Dad, Speech-impaired and One-Eyed (1970), enigmatic 99% self-educated banker, poet, author and publisher. Orphaned at 3 months old (March 1966), war survivor (Nigeria vs. Secessionist Republic of Biafra 1967-1970), international man of mystery whom fate and the ancients foreordained in the scriptures, Inkomania - For The Love Of Inko (Vol. 1) is a compilation of romantic online letters from hundreds of thousands of gorgeous ladies worldwide seeking relationships. They went crazy dripping wet hitting on him, fingerling themselves while viewing his handsome online profile pictures. Besides every great man is a great woman who says that there is a woman behind the rise and fall of every famous and infamous man. He is a monster among men whom the gods envy, ladies are obsessed with and never get enough of him. Whom the gods wants destroyed must first attain greatness.

There were many parallels between him and ancient Egyptian Horus, Greek hero Heracles as well as Yahshua (Jesus Christ). He and Horus were blinded in the left eye, survived great peril in infancy like strongman Heracles who killed 2 snakes with bare hands Goddess Hera placed in his crib as well as experienced death, resurrection and rebirth (11-12000) like Jesus. If not him, then who best fits the description. Prophet Muhammad (PBUH) also mentioned him in the Holy Qur'an.

Prophet Daniel (2:34-35) predicted 3,100 years ago "thou sawest till that a stone was cut out without hands, which smote the image upon his feet that were of iron and clay, and brake them to pieces...and the stone that smote the image became a great mountain that filled the whole earth." No wonder 650,000 gorgeous ladies around the world reached out to him online, pledging acrobatic romance, tastes his syrup, drink his juice, eat his banana and delicious dragon. Hilarious! They were of diverse nationalities and races, 20-77 years old and of many various professions. He never had the good touch of a woman in 29 years since arriving U.S.A on June 6, 1992 to attend college at Gallaudet University, Washington, DC.

Joseph Campbell, renowned U.S. author and mythical expert presciently described him cryptically in the much acclaimed book, "The Hero With A Thousand Faces" (Page 93, 1949)... "The meeting with the goddess who is incarnate in every woman is the final test of the talent of the hero to win the boon of love..." What merely floats as a mythical legend has now metamorphosed into a living reality. It is not always literature that mirrors life but life itself sometimes imitate literature.

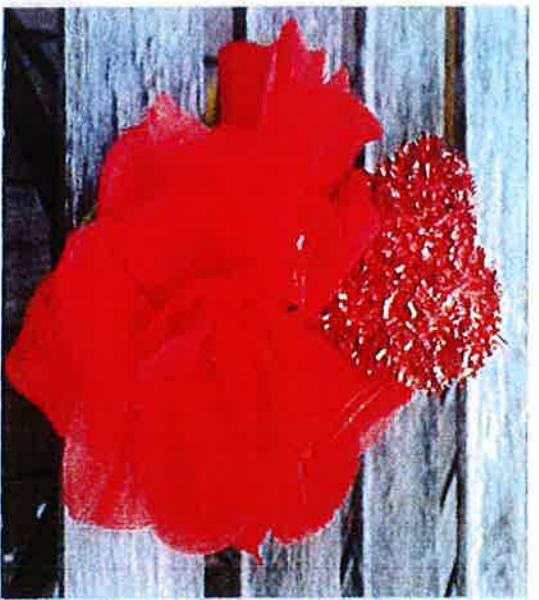


Charles Awusin Inko-Tariah

INKOMANIA: FOR THE LOVE OF INKO

FOR THE LOVE OF INKO

INKOMANIA



650,000+ single, divorced, widowed and ladies with significant other worldwide hitting on "Awusin-The Tragic-Hero." Love transcends boundaries.

Charles Awusin Inko-Tariah
(Volume 1)



Fate meets it's match. Who can take on Fate? Over 2,000 years ago Yahshua The Messiah (Jesus Christ) healed the deaf man (Mark 7:31-37). The people asked him whether his parents sinned. He replied them: "Neither hath this man sinned, nor his parents: but that the works of God should be made manifest in him." (KJB)

"When a person, even in the most difficult hopeless situation, smiles and does not lose his fighting spirit, this speaks of his great fortitude and enormous inner strength, isn't it" -European female admirer on Anastasiadate.com 2021

"To persevere, trusting in what hopes he has, is courage in a man. The coward despairs." Euripides (Ancient Greek Fabulist and Dramatist of Tragedy, c. 484-407 BCE)

Charles Awusin Inko-Tarish is orphaned at 3 months old (March 1966) war survivor (Nigeria vs Biafra 1967-1970), abandoned by mother at age 2-6 years old (1968-1972) become deaf blind at age 4 (1970) after surviving severe illness a couple of times. Then Fate came banging on the door dealing him a cruel and savage blows. He attended mainstream primary and secondary schools and self-educated unaided for 12 years (1970-1982). He worked in a bank, Societe Generale, Lagos, Nigeria 1986-1990 as Clerk-Typist and attended college at Gallaudet University, Washington, DC 1992-1993. He was a political prisoner for 25 years in USA (1994-2018) following underground metro subway havoc disruption 7-31-98 in Washington, DC protesting great injustice of police brutality and conspiracy to frame him for murder in Norfolk, Virginia 10-3-92.

Publius Cornelius Tacitus (AD 56-120), Ancient historian, philosopher and thinker says "I suspend my judgment on the question whether it is fate, unchangeable necessity or chance which govern the revolution of human affairs," adding "Not everything that happens without man willing them is fated. Some of the thing that happens without man willing them happen by chance or fortune."



GLOOOMY FATE

(FATE - HARBINGER IN THE TEMPLE OF DOOM) AND (CALAMITOUS - MAN vs FATE)

Fate Meets It's Match, (Brief Poetry) By Orphaned 90% Self-Educated, Deaf/Blind Bunker, Poet, Author and Publisher

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51499>



ISBN 978-1-7369178-4-8
ISBN: 978-1-7369178-5-5

CHARLES AWUSIN INKO-TARIAH

