

CORRECTED AND ADOPTED

**IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
MARCH TERM, A.D. 2017**

PRESENT: HIS HONOR FRANCIS S. KORKPOR, SR.,.....CHIEF JUSTICE
“ **HIS HONOR KABINEH M. JA’NEH,.....ASSOCIATE JUSTICE**
“ **HER HONOR JAMESETTA H. WOLOKOLIE,....ASSOCIATE JUSTICE**
“ **HIS HONOR PHILIP A. Z. BANKS, III.,.....ASSOCIATE JUSTICE**
“ **HER HONOR SIE-A-NYENE G. YUOH,.....ASSOCIATE JUSTICE**

THURSDAY, APRIL 6, 2017
4TH DAY’S SESSION

The Honorable Supreme Court of the Republic of Liberia, sitting in its March Term, 2017, met this morning at the hour of 10:00 a.m., for the transaction of business with His Honor Francis S. Korkpor, Sr., Chief Justice, presiding.

Madam Justice Sie-A-Nyene G. Yuoh travelled.

OFFICERS OF COURT PRESENT.

COUNSELLORS PRESENT: Scheaplor R. Dunbar, Tiawan S. Gongloe, Gartor Tate, Cornelius Flomo Wennah, David W. Woah, Albert S. Sims and Augustine C. Fayiah

His Honor Francis S. Korkpor, Sr., ordered and the Marshal cried the opening of the day’s session. Thereafter, the Court was led in devotion by Rev. J. Joel Gould, Chaplain, Supreme Court of Liberia.

A motion for the correction and adoption of the minutes of Wednesday, March 22, 2017, 3rd day’s session, was made by Counsellor Scheaplor R. Dunbar of Pierre, Tweh and Associates Law Firm, and seconded by Counsellor Augustine C. Fayiah, Assistant Minister of Justice for Litigation.

The following corrections were made to the minutes of Wednesday, March 22, 2017, 3rd day’s session, by the Bench:

- Page 1:** “*A motion for the correction and adoption of the minutes of Tuesday, March 21, 2017, 2nd day’s session,...*”
- “ “*The following corrections were made to the minutes of Tuesday, March 21, 2017, 2nd day’s session, by the Bench:*”
- Page 8:** “*Given the protracted period that this case has remained before this Court, we hereby warn Mr. Jusu...*”
- Page 11:** “**THE COURT:** *‘The request made by counsel for respondents to postpone this case for a period of two weeks...’.*”

THE COURT: “*With the corrections made by the Bench, the minutes of Wednesday, March 22, 2017, 3rd day’s session, are adopted.*”

THE CASE: MODESCO NYANDER OF BONG COUNTY, REPUBLIC OF LIBERIA, APPELLANT, VERSUS THE REPUBLIC OF LIBERIA, APPELLEE, ACTION. APPEAL: MURDER IS CALLED FOR HEARING.

REPRESENTATIONS: *“Appellant is represented by Sherman and Sherman, Inc., and present in Court is Counsellor Albert S. Sims. And respectfully submits.” “The Republic of Liberia is represented by the Ministry of Justice and present in Court are Counsellors Augustine C. Fayiah, Assistant Minister of Justice for Litigation, Cornelius Flomo Wennah, County Attorney, Bong County, David W. Woah, Consultant, Ministry of Justice, and Gartor Tate, Legal Counsel, Ministry of Justice. And respectfully submit.”*

THE COURT: *“The representations of the parties are noted.”*

EACH SIDE WAS GIVEN ONE (1) HOUR TO ARGUE

Counsel for appellant argued as per his brief and presented the following issues for determination by the Bench:

- “1. *Whether the verdict of guilty brought by the trial jury against defendant/appellant is contrary to the weight of evidence adduced at the trial for which the defendant/appellant should be acquitted?***
- 2. *Whether the trial judge committed a reversible error when he ruled that the empanelled jury should select their own foreman/lady and secretary when they retired in their room of deliberation to bring a verdict contrary to law?***
- 3. *Whether the evidence extracted from a person accused of murder in detention is admissible in the determination of his guilt?”***

The following questions were posed to counsel for appellant by the Bench:

Ques: Did the appellant say he escorted the victim?

Ans: No, Your Honors. The appellant did not say he escorted the victim.

Ques: Can you describe the condition of the victim’s body since you say there was a scuffle?

Ans: The record reveals that there was a cut on the arm and the neck of the victim.

Ques: Did you go on the scene of the incident to know the distance between where the body was discovered and the nearby village?

Ans: No, Your Honors. I did not go on the scene of the incident.

Ques: Did all of the witnesses of the prosecution say that the victim's body was found a "*stone-throw*" away from the nearby village?

Ans: No, Your Honors.

Ques: During the first trial, did the appellant say he escorted the victim?

Ans: No, Your Honors.

Ques: Is there evidence on the record that the defendant escorted the victim?

Ans: No, Your Honors. There is no evidence on the record that the appellant admitted escorting the victim.

Ques: Did you read the record in the first trial?

Ans: Yes, Your Honors.

Ques: What was the evidence missing in the first trial?

Ans: The telephone call record was the missing evidence.

Ques: What was the basis of the appellant's insistence on seeing the victim's body?

Ans: In a village setting, Your Honors, when "*something*" happens to one person, it concerns everyone. The appellant was just curious.

Ques: Was the victim a relative of the appellant?

Ans: In a village setting, everyone is regarded as relative, Your Honors.

Ques: Did the appellant know the victim prior to the incident leading to her death?

Ans: Yes, Your Honors. The appellant said that he and the victim were school mates.

Ques: Was there any evidence that the appellant went on a spending spree?

Ans: No, Your Honors.

Ques: Was there any issue about alibi?

Ans: Yes, Your Honors. The appellant said that he did not leave the village on the day of the incident.

Ques: Did the appellant produce witnesses to support his alibi assertion?

Ans: Yes, Your Honors.

Counsel for the appellant rested on the opening argument.

Counsels for appellee argued as per their brief and presented the following issue for determination by the Bench:

“1. *Whether the evidence adduced by the State established beyond a reasonable doubt its case against the appellant/defendant in a trial, which was regularly and fairly conducted?*

The following questions were posed to counsel for the appellant by the Bench:

Ques: Where did you get the testimony that the appellant admitted escorting the victim?

Ans: The testimonies were gotten from the State’s witnesses, and from the police charge sheet, Your Honors.

Ques: Did the State take finger prints?

Ans: No, Your Honors

Ques: Please describe the circumstances of the victim’s death.

Ans: The victim went to buy palm oil and was escorted by the appellant and that very day she got killed. Her arm was broken, under her chin cut, and there were bruises on her body.

Ques: Was there a scuffle?

Ans: Yes, Your Honors.

Ques: How many persons were originally indicted?

Ans: Two persons, Your Honors.

Ques: If you say the victim was struck by an object and that object was available on the scene of the incident, why was the object not examined to know whether it was used by the appellant?

Ans: The facilities and resources were not available to have the object examined.

Ques: Was there a cutlass found on the scene of the incident?

Ans: Yes, Your Honors.

Ques: Did you examine the cutlass found on the scene of the incident?

Ans: No, Your Honors.

Ques: Was there any injury or wound on the appellant?

Ans: The appellant had so much mud on his clothes.

Ques: Was blood stain found on the appellant's muddy clothes?

Ans: No, Your Honors, but he (the appellant) might have washed the blood from his muddy clothes.

Ques: Did you produce any witness who testified that the victim was escorted by the appellant?

Ans: No, Your Honors, but the appellant himself admitted escorting the victim.

Ques: Was there an autopsy report?

Ans: No, Your Honors.

Ques: Was there a coroner's report?

Ans: Yes, Your Honors.

Ques: What did the coroner's report reveal?

Ans: The Coroner's report revealed that the victim died a violent death.

Ques: Was the appellant the last person seen with the victim?

Ans: Yes, Your Honors.

Ques: For how long has the appellant been in jail?

Ans: The appellant has been in jail for about ten (10) years.

Ques: How old is the appellant?

Ans: The appellant is in his mid-forties, Your Honor.

Counsel for appellee rested on the opening argument.

One of counsels for the appellee, Republic of Liberia, in closing, prayed the Honorable Supreme Court to affirm and confirm the judgment of the lower court and grant appellee/plaintiff all further relief deemed just and legal. And respectfully submitted.

Counsel for appellant in closing, prayed the Honorable Supreme Court to reverse the judgment of the court below and acquit the defendant/appellant from the commission of the crime of Murder. And respectfully submitted.

THE CASE: MANAGEMENT OF GLOBAL TRUST ASSURANCE OF THE CITY OF MONROVIA, LIBERIA, APPELLANT, VERSUS NNADORIE UKAULO OF THE CITY OF MONROVIA, LIBERIA, APPELLEE, ACTION: APPEAL, PETITION FOR JUDICIAL REVIEW IS CALLED FOR HEARING.

REPRESENTATIONS: *“Appellee is represented by Pierre, Tweh and Associates Law Firm and present in Court is Counsellor Scheaplor R. Dunbar. And respectfully submits.”*

No counsel appeared for the appellant.

At this stage, the Chief Justice ascertained from the Clerk of Court whether there was any letter of excuse filed by the absent counsel. The Clerk of Court responded in the affirmative, and he, by order of the Chief Justice read the said letter of excuse.

THE COURT: *“The record shows that this case was called for hearing during the March Term A. D. 2016. At that time, an excuse similar to what we have on record today from Kemp & Associates Law Firm was received. On account of that letter of excuse, this case was postponed. At that time no brief was filed by Kemp and Associate Law Firm, as a result of which that firm was fined the amount of US\$200.00 (Two Hundred United States Dollars), which amount was paid. At that time also, Kemp and Associate Law Firm was advised to file brief so that upon subsequent call of this case, the matter would be heard.*

Today, upon the call of the case and upon careful inspection of the record, Kemp and Associate has failed and/or refused to file brief as directed. The Kemp and Associates Law Firm is again hereby fined the amount of US\$200.00 (Two Hundred United States Dollars), to be paid into government revenue and receipt of payment deposited with the Marshal of this Court. The Court says that Kemp and Associates Law Firm is given a period of one week to file its brief. Upon the filing of said brief, the Court will enter upon the record and make determination in this case. However, if Kemp and Associates Law Firm refuses or fails to file brief as directed today, the Court will still enter upon the record and make appropriate decision in this case, in keeping with the applicable rules.

The continuous excuse for the postponement of this case for the reason that one counsel working with Kemp and Associate Law Firm in person of Counsellor Freddie R. Taylor is the one au courant with the facts of the case, and because he is said to be ill the matter should be postponed, cannot be granted. This is because Kemp and Associates Law Firm has several lawyers, and this case belongs to the Law Firm and not to an individual lawyer. Where one lawyer of a firm comprising several lawyers is absent, this is not a valid ground for the postponement of a case. The letter of excuse is hereby denied. The Clerk of Court is ordered to have Kemp and Associates Law Firm informed about the decision of the Court in this matter. And it is hereby so ordered. Matter suspended.”

THE CASE: MR. AND MRS. MUSA KONNEH OF SKD COMMUNITY, BUSHROD ISLAND, MONROVIA, LIBERIA, APPELLANTS, VERSUS MOHAMMED KONNEH, BELLEH KONNEH, LAYEE KAMARA ET AL., OF SAMUEL K. DOE COMMUNITY (SKD) BUSHROD ISLAND, MONROVIA, LIBERIA, APPELLEES. ACTION: APPEAL IS CALLED FOR HEARING.

REPRESENTATIONS: *“Appellee is represented by Gongloe and Associates Law Firm and present in Court is Counsellor Tiawan S. Gongloe. And respectfully submits.”*

No counsel appeared for the appellants.

At this stage, the Chief Justice ascertained from the Clerk of Court whether there was any letter of excuse filed by the absent counsel. The Clerk of Court responded in the affirmative, and he, by order of the Chief Justice read the said letter of excuse.

THE COURT: *“At the call of the case a letter of excuse was received from Counsellor Milton D. Taylor, representing appellants. In his letter, Counsellor Taylor informed the Court that the Liberian National Bar Association has designated him to represent the Bar at a meeting in Port Harcourt, Nigeria, which meeting starts on the 7th to the 8th of April 2017, and was traveling out of the country on Wednesday, the 5th of April 2017. The Court grants the excuse and will reassign this case. And it is hereby so ordered. Matter Suspended.”*

There being no other matters to claim the attention of the Court, His Honor Francis S. Korkpor, Sr., Chief Justice, ordered Rev. J. Joel Gould, Chaplain, Supreme Court of Liberia, to give the benediction. The Marshal was ordered to adjourn the Court to meet subject to call. And said order was carried out.

Respectfully Submitted:

Atty. Sam Mamulu
ACTING CLERK, SUPREME COURT, R.L.