

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS MARCH TERM, A. D.2026

BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....CHIEF JUSTICE
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HER HONOR : CEATNEH D. CLINTON-JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEH.....ASSOCIATE JUSTICE

Valington B. Kaiser, alias Bishop of the city of	)	
Monrovia, Liberia..... Appellant	)	
	)	
Versus	)	Appeal
	)	
Republic of Liberia by and thru the Ministry of	)	
Justice of the City of Monrovia, Liberia	)	
..... Appellee	)	

GROWING OUT OF THE CASE:

Republic of Liberia by and thru the Ministry of	)	
Justice of the City of Monrovia, Liberia	)	
..... Plaintiff	)	
	)	CRIME:
Versus	)	Murder
	)	
Valington B. Kaiser, alias Bishop of the city of	)	
Monrovia, Liberia..... Defendant	)	

Heard: June 22, 2026

Decided: August 28, 2026

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This appeal arises from the prosecution of the appellant, Valington B. Kaiser, also known as "Bishop," who was indicted by the Republic of Liberia for Murder in violation of Section 14.1(a) of the Penal Law of Liberia. Murder is among the gravest offenses recognized under our criminal justice system. A person who purposely or knowingly causes the death of another human being under circumstances manifesting extreme indifference to the value of human life commits a first-degree felony punishable by either life imprisonment or death, as prescribed by Sections 50.5 and 51.3 of the Penal Law. The Legislature enacted these provisions to protect the sanctity of human life and to deter unlawful, intentional killing.

While the law imposes severe punishment on those convicted of murder, it likewise places an equally solemn obligation on the prosecution to ensure that justice is administered fairly and impartially. The prosecution must therefore

establish every essential element of the offense beyond a reasonable doubt before an accused may be deprived of his liberty. Consequently, no person may be convicted of murder unless the evidence proves that he purposely or knowingly and unlawfully caused the death of another human being. This is the burden the Republic assumed in prosecuting the appellant.

The indictment alleged that on May 15, 2022, at approximately 7:38 p.m., within the LPRC Community, Gardnerville Township, Montserrado County, Republic of Liberia, the appellant unlawfully killed Fatu Biasuwoah. According to the indictment, on May 14 and May 15, 2022, the appellant and the deceased exchanged numerous telephone calls and text messages. The prosecution alleged that the appellant thereafter escorted the deceased to his residence, where they remained for several hours before returning to the vicinity where they had initially met.

The indictment further alleged that upon their return, both the appellant and the deceased entered a makeshift zinc structure within the industrial complex. Once inside, the appellant intentionally stabbed the deceased multiple times with a green-handled knife, inflicting fatal wounds to her neck and hands, causing her to bleed profusely until she died.

The Republic further alleged that on the same day, May 15, 2022, after committing the offense, the appellant telephoned the deceased's mother, Madam Maima Sackie, and inquired whether the deceased had returned home safely, thereby attempting to conceal his alleged involvement in the crime. The following morning, May 16, 2022, the appellant allegedly joined the deceased's mother and his aunt, Madam Gurley Russ, in searching for the deceased despite allegedly knowing that she had already been killed and that her body had been abandoned inside the zinc structure. That the act of the appellant constitutes Murder, thereby contravening 4LCLR, Title 26, Section 14.1 (a); 4LCLR, Title 26, Section 50.5 and 51.3; and 4LCLR, Title 26, Section 2.2(a) and (b); of the statutory laws of the Republic of Liberia; and the peace and dignity of the Republic of Liberia.

Following his arrest, the appellant was brought before the trial court, formally arraigned, and the indictment was read to him. He entered a plea of not guilty, thereby placing all material allegations contained in the indictment in issue and

requiring the Republic to prove its case beyond a reasonable doubt in line with our criminal procedure law. At trial, the appellee, the Republic, produced four witnesses: Maima Sackie, the deceased's mother; Kerkulah M. Kamara, a friend of the deceased; Raffell A. Wilson, Deputy Chief Investigator of the Crime Services Department of the Liberia National Police; and Abraham Ricks, County Coroner for Montserrado County. The appellant, on the other hand, presented two witnesses: Valington B. Kaiser, the appellant; and Madam Gurley Ross, the appellant's aunt.

The appellee's first witness, Madam Maima Sackie, testified that on May 15, 2022, between approximately 3:00 p.m. and 4:00 p.m., she returned home from church and observed her daughter preparing to leave the house. When asked where she was going, the deceased said she was on her way to deliver her fiancé's telephone, which he had left with her about one week earlier. According to the witness, after the deceased departed, between 8:15 p.m. and 8:30 p.m., she received a text message from the appellant stating: "Our Ma, has Fatu come home? I have been calling her phone, but she is not answering." Concerned, the witness immediately called the appellant, who informed her that he had placed the deceased on a commercial motorcycle along the LPRC Road at approximately 6:00 p.m. Since the deceased had not returned home, the witness requested that they meet at the location where he claimed to have placed the deceased on a motorbike. She testified that when she arrived at the agreed location, accompanied by a family friend, the appellant was initially absent but later emerged from the direction of the Shoe Factory Community, sweating profusely; that despite searching the area together, they were unable to locate the deceased. The witness further testified that as it grew late, she left and continued contacting both the appellant and his aunt throughout the night, but neither could account for the deceased. She further testified that early the following morning, the appellant's aunt informed her that they intended to resume searching for the deceased around the LPRC Junction. The witness testified that while proceeding toward that location the morning of the next day, she observed a crowd gathered near the Biscuit Factory. As she approached, the bystander boys said: "Oh, see how the girl was killed." Upon reaching the scene, she recognized the body of her daughter lying in a pool of blood beside a knife. Overcome with grief, she began crying and shouting. On cross-examination, the witness candidly admitted that she did not witness the appellant kill her daughter.

The Republic's second witness, Kerkulah M. Kamara, testified that he was a close friend of the deceased. He stated that on May 15, 2022, between approximately 3:00 p.m. and 4:00 p.m., while returning from work, he observed the deceased walking with a young man he described as wearing a white T-shirt. According to the witness, he learned the following morning that the deceased had been found dead. His testimony was limited to establishing that he last saw the deceased alive in the company of a male companion on the afternoon before her body was discovered.

The Republic's third witness, Raffell A. Wilson, Deputy Chief Investigator of the Crime Services Department of the Liberia National Police, testified that on May 16, 2022, he received information about the suspicious death of a young woman whose body had been discovered near the Biscuit Factory within the former LPRC Industrial Complex in Gardnerville. Accompanied by Mr. Abraham Ricks, County Coroner for Montserrado County, he immediately proceeded to the scene to investigate. Upon arrival, the witness observed the lifeless body of a female, later identified as Fatu Biasuwoah, lying beneath a table inside one of several makeshift zinc structures within the industrial complex formerly known as the LPRC Compound. The deceased was found in a pool of blood with multiple stab wounds and cut wounds across her body. A preliminary examination by the investigators and the County Coroner revealed that the deceased was in possession of a telephone and earphones. Investigators also recovered a green-handled knife near the deceased's body. The deceased was clothed in a colorful jean jacket, a pink blouse, and trousers. The witness testified that investigators interviewed the deceased's mother and several other individuals present at the crime scene. During the investigation, it was established that the deceased and the appellant were romantically involved. According to the witness, the investigation revealed that on May 15, 2022, before approximately 3:45 p.m., the appellant placed several telephone calls to the deceased. At about 3:45 p.m., both individuals were observed in the vicinity of the industrial complex. The appellant approached from the Shoe Factory Community, while the deceased approached from the Gulf area near the Sethi Brothers Steel Factory. The two thereafter walked together toward the Shoe Factory Community. The witness further testified that the investigation established that approximately seven to eight minutes thereafter, the appellant and the

deceased were at the residence of the appellant's aunt, Madam Gurley Ross, where they remained until approximately 7:00 p.m. He testified that thereafter, CCTV footage shows that they were again seen within the industrial complex.

The witness further testified that when the appellant and the deceased first met on May 15 at about 4:00 p.m., they were walking very close together, side by side. At about 7:00 p.m., when both appeared again in the industrial complex on the CCTV footage, the deceased was ahead, and the appellant was behind her. The witness testified that the footage showed that both the appellant and the deceased walked toward the makeshift zinc structure, which comprised four compartments and had no door or window. The investigation revealed that the makeshift zinc structure was usually used as a cook shop during the day, but that no one occupied the area at night. According to the witness, both the appellant and the deceased entered the makeshift zinc structure, but the appellant came out without a shirt and walked toward his house, in the direction from which they had come. The witness testified that there was no evidence indicating that another person entered the structure after the appellant left and before the deceased's body was discovered the following morning by onlookers who alerted the police. Given all the circumstances, the investigation concluded that the appellant had acted purposely and knowingly, with extreme indifference to the value of human life; accordingly, he was charged with murder. The witness's testimony was based on CCTV footage. The witness also testified that the deceased was discovered at the crime scene with her clothing, including a jean jacket and trousers. On cross-examination, the witness testified that there was no conflict between the victim and the appellant except for a series of calls and text messages prior to the incident. He further testified that the fingerprint examination conducted on the knife retrieved from the crime scene matched that of one of the fingers of the appellant.

The Republic's fourth and final witness, Abraham Ricks, County Coroner for Montserrado County, testified that he was requested to conduct a postmortem examination of the body of Fatu Biasuwoah to determine the cause and manner of her death. According to the witness, he and his team conducted the examination at the A.B. Roberts Funeral Home. The examination disclosed that the deceased sustained numerous fatal injuries, including multiple gashes and stab wounds. Specifically, the witness testified that the deceased suffered three deep gash wounds to the chest, multiple stab wounds to the neck, and a particularly severe

wound measuring approximately three and one-half inches in length and four inches in depth. Based on these findings, the witness concluded that the cause of death was multiple stab and gash wounds inflicted upon the deceased.

Upon the conclusion of the testimony of its four witnesses, the Republic rested with the production of evidence. A careful examination of the prosecution's case reveals that the Republic relied primarily upon circumstantial evidence, supported by forensic evidence and surveillance footage, to establish the appellant's guilt. The prosecution sought to demonstrate that: the deceased was last seen alive in the exclusive company of the appellant; both the appellant and the deceased entered the makeshift zinc structure together; only the appellant was observed leaving the structure; no evidence indicated that any third person entered the structure before the deceased's body was discovered; forensic examination allegedly connected the appellant to the murder weapon through fingerprint evidence.

Following the close of the prosecution's case, the appellant presented his defense. The defense called two witnesses: the appellant, Valington B. Kaiser, and Madam Gurley Ross, the appellant's aunt.

The appellant took the witness stand and categorically denied murdering Fatu Biasuwoah, whom he described as his fiancée. He testified that their relationship was cordial and affectionate and that they had introduced one another to their respective families. According to the appellant, they had never experienced any serious misunderstanding or conflict during their relationship. He explained that sometime before the incident, the deceased requested that he use his phone. He consented, and after the phone was fixed, he gave it to her. The witness further testified that on Sunday, May 15, 2022, because he was running after his admission to college and needed the phone, he called and asked the deceased to bring the phone to his aunt's place. He told the court that the deceased told him she had just left service, but that the route to his aunt's place, which passed through a fence around the factory where the incident occurred, was risky and unsafe. In his own words, he testified as follows: "I told her, if anything, I will send your weekly transport on mobile money, but if you are coming and approaching the factory, stop and wait; I will come and pick you up. We agreed on this."

The witness testified that, as agreed, at about 1:30 pm on the same day, that is, May 15, 2022, he picked up the deceased in the biscuit factory area, and they both went to his aunt's place, where they spent some quality time. Later, when they came outside, a lady celebrating her birthday offered them food. Thereafter, the deceased prepared hot water, and the two of them bathed. He told the trial that they left his aunt's house by 6:50 pm.

The witness continued that while on their way, the deceased complained to him about her former boyfriend, Romeo, who keeps calling her and causing problems for her, and that Romeo wants their relationship back. According to him, he advised Fatu not to answer Romeo's calls anymore and said he would find time to confront Romeo to stop harassing her. He testified that he placed the deceased on a motorbike and left, but the deceased said that when he called around 7:00 pm, she was normally in devotion and did not answer. He said that after some time, he called the deceased's number, but there was no response; he then texted her mother to ask if the deceased had reached home, and the mother said no. Thereafter, according to the witness, they began calling Fatu all night but to no avail, and the next day her lifeless body was found not too far from where he put her on the bike, in a zinc shop.

The appellant testified that he was taken to the Liberia National Police for questioning, detained overnight at police headquarters, and that the following morning the deceased's relatives came to the police station as the investigation began. He stated that he explained his account to investigators and that they decided to obtain the CCTV footage. According to him, his mother provided US\$10.00 to purchase a storage device so that the footage could be played. When asked whether he was the person shown in the video entering the zinc structure, he denied that the person was him, stating that the individual's height and appearance more closely resembled Romeo, the person about whom the deceased had allegedly complained and who, according to the appellant, also appeared at the crime scene.

The defense's second witness, Madam Gurley Ross, testified that she is the appellant's aunt. She stated that on May 15, 2022, she attended church and, after the service, visited fellow church members before returning home. Upon her arrival, she found the deceased at her residence with the appellant. According to

the witness, the deceased stayed at her residence for only a short period before saying she intended to return home. She testified that the appellant then escorted the deceased to the roadside and returned home alone. Madam Ross further testified that later that evening, the deceased's mother telephoned to inquire about her daughter's whereabouts. She stated that she and the appellant immediately became concerned and repeatedly tried to contact the deceased by telephone but received no response. The witness further testified that the following morning she accompanied the appellant in searching for the deceased and ultimately learned that her body had been discovered near the Biscuit Factory. She denied observing any unusual behavior by the appellant either before or after the deceased left her residence.

Following Madam Ross's testimony, the defense rested. A careful review of the defense's evidence reveals that the appellant advanced several principal theories in support of his innocence. First, he categorically denied killing the deceased and maintained that he safely escorted the deceased to a commercial motorcycle before returning home. Second, he contended that the surveillance footage relied on by the prosecution did not clearly identify him as the person who entered the makeshift zinc structure with the deceased. Third, he suggested that the deceased's former boyfriend, Romeo, who allegedly pursued and harassed the deceased, was a more plausible suspect and that investigators failed to adequately investigate this lead. Finally, the defense challenged the reliability of the forensic and documentary evidence relied on by the prosecution, including the handling of the CCTV footage and the fingerprint evidence allegedly recovered from the murder weapon.

After both parties presented their evidence, the trial court charged the jury on the applicable law and submitted the case for deliberation. After considering the evidence, the jury returned a verdict finding the appellant guilty of murder. The appellant promptly excepted to the verdict and filed a motion for a new trial, contending that the verdict was contrary to both the law and the evidence. The trial court heard the motion and subsequently denied it. Thereafter, the trial judge entered final judgment affirming the jury's verdict and sentenced the appellant to life imprisonment.

The appellant duly entered an exception to the final judgment, announced an appeal to this Court, and perfected his appeal by filing a Bill of Exceptions. Because the bill of exceptions is repetitive, we summarize the germane portion we

deem prudent for the adjudication of this appeal, since this Court is not compelled to pass upon all the issues raised in a bill of exceptions but only those that are germane. It is within this Court's purview to determine which issues are germane and relevant to the disposition of an appeal. *Eric F. Nagbe v. Thierno Mountanga Barry*, Supreme Court Opinion, March Term, 2024; *Frederick Kromah et al. v. Bea Mountain Mining Company*, Supreme Court Opinion, October Term, 2022; *CBL v. TRADEVCO*, Supreme Court Opinion, October Term, 2012; *Knuckles v. TRADEVCO*, 40 LLR 49, 53 (2000).

The appellant, in his Bill of Exceptions, assigns several alleged errors committed by the trial court. He principally contends that the prosecution failed to establish beyond a reasonable doubt that he was the person who murdered the deceased. Specifically, he argues that the trial judge improperly excluded evidence relating to the deceased's former boyfriend, Romeo Tamba, despite testimony that the deceased had repeatedly complained that he persistently harassed her in an effort to rekindle their relationship and that telephone records allegedly placed him in communication with the deceased shortly before her death. The appellant further maintains that the CCTV footage relied upon by the prosecution was insufficiently clear to permit positive identification of the individual depicted therein and therefore could not sustain a criminal conviction. He additionally argues that the fingerprint evidence was materially inconsistent with the prosecution's theory because the forensic report identified only a single middle-finger impression on the alleged murder weapon, a circumstance which, according to the appellant, is inconsistent with repeated stabbing. Finally, he asserts that the prosecution failed to establish the essential element of malice aforethought and that the evidence disclosed an irreconcilable variance regarding the time of death, the indictment alleging that the deceased was killed at approximately 7:38 p.m. on May 15, 2022, while the crime scene investigation report estimated that death occurred at approximately 2:00 a.m. on May 16, 2022.

Having carefully reviewed the entire record, including the indictment, the oral and documentary evidence presented at trial, the trial court's rulings, the Bill of Exceptions, and the parties' briefs, this Court concludes that the numerous assignments of error may appropriately be resolved by determining one controlling question:

Whether the Republic proved beyond a reasonable doubt that the appellant purposely or knowingly caused the death of the deceased so as to sustain his conviction for murder under Section 14.1 of the Penal Law of Liberia.

The New Penal Code of Liberia approved July 19, 1976, Section 14.1, defines murder as follow to wit: ‘A person is guilty of murder if he:

- (a) Purposefully or knowingly causes the death of another;
- (b) Causes the death of another human being under extreme indifference to the value of human life...

“A person is guilty of murder only if he purposely or knowingly causes the death of another person human being and for the charge of murder to be sustained, it must be proved that the accused committed the unlawful killing with premeditation and malice aforethought. The penalty for murder is Death or Life Imprisonment. “New penal Code of Liberia, Section 50.3.”

The resolution of this issue necessarily requires the Court to determine not whether a homicide occurred, for that fact is undisputed, but whether the prosecution produced competent, credible, and legally sufficient evidence identifying the appellant as the person who unlawfully committed the offense.

At the outset, it is imperative to reiterate a fundamental principle deeply embedded in our criminal jurisprudence. Every person accused of a crime enters a court of law clothed with the presumption of innocence. That presumption is not a mere procedural formality; rather, it is a substantive constitutional safeguard that remains with the accused throughout every stage of the criminal proceedings unless and until the prosecution establishes guilt beyond a reasonable doubt. Section 2.1 of the Criminal Procedure Law expressly provides that: "A defendant in a criminal action is presumed to be innocent until the contrary is proved; and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal." This presumption of innocence remains with the accused throughout the proceedings, and the State bears the continuing burden of establishing guilt beyond a reasonable doubt before a conviction may be sustained. That burden never shifts to the accused. The accused assumes no obligation to establish his innocence, explain the weaknesses in the prosecution's case, or account for circumstances that could generate suspicion. The prosecution alone bears the duty of producing evidence sufficient to remove every reasonable doubt concerning each essential element of the charged offense. This Court has consistently adhered to that principle. In *Johnson v. Republic*, 31 LLR 280, 284 (1983), we held that

every material fact constituting the charged offense must be proved beyond a reasonable doubt, failing which the accused is entitled to an acquittal. Likewise, in *Sirleaf v. Republic* (March Term, A.D. 2012), this Court reaffirmed that the State bears the continuing burden of establishing guilt beyond a reasonable doubt before a conviction may lawfully stand, citing with approval *Saar v. Republic*, 29 LLR 35 (1981); *Feeke v. Republic*, 30 LLR 189 (1982); *Davies v. Republic*, 40 LLR 659 (2001); *Okraasi v. Republic* (March Term, 2009); *Wogbeh v. Republic* (October Term, 2009); and *Brown et al. v. Republic* (October Term, 2009). These decisions collectively underscore the settled doctrine that criminal convictions may not rest upon conjecture, suspicion, or probability, however compelling, but only upon evidence establishing guilt beyond a reasonable doubt.

In a prosecution for murder, the State must prove beyond a reasonable doubt not only that the deceased died as a result of criminal conduct but also that the accused intentionally caused that death with the requisite criminal intent. This Court has long recognized that intent and malice aforethought are indispensable elements of the offense of murder. In *Nimley et al. v. Republic*, 30 LLR 676 (1983), and *Alfred v. Republic*, 33 LLR 87 (1985), this Court held that a conviction for murder cannot be sustained unless the prosecution establishes that the accused unlawfully killed another human being purposely or knowingly and with malice aforethought. Although malice may, in appropriate circumstances, be inferred from the deliberate use of a deadly weapon or from the surrounding facts and circumstances of the killing, such an inference arises only after the prosecution has first established beyond a reasonable doubt that the accused was, in fact, the person who committed the homicidal act.

Indeed, this Court has previously explained that malice aforethought does not necessarily require proof of longstanding hatred, revenge, or personal animosity. In *Krahn-Gbo v. Republic*, 8 LLR 141, 150 (1943), we observed that the law may imply malice from the intentional commission of an unlawful act resulting in death. Similarly, in *Dahn v. Republic*, 34 LLR 565, 575 (1988), we held that where the evidence establishes that an accused deliberately killed another human being without lawful justification or excuse, malice may properly be inferred, notwithstanding the absence of evidence demonstrating prior hostility between the parties. Those long-standing legal authorities, however, presuppose proof that the accused committed the homicidal act. They do not dispense with the prosecution's

threshold obligation to prove the accused's guilt. Before malice may be inferred, before intent may be considered, and before any presumption arising from the use of a deadly weapon becomes operative, the prosecution must first establish beyond a reasonable doubt that the accused, and no other reasonable person, inflicted the fatal injuries. Identity is therefore the indispensable foundation upon which every subsequent element of criminal liability rests.

The indictment alleged that the appellant intentionally stabbed the deceased multiple times with a green-handled knife, inflicting fatal wounds to her neck and hands that caused her death. However, those allegations were not self-proving. An indictment is merely the formal accusation upon which the prosecution proceeds to trial; it is not evidence of guilt. Consequently, every factual allegation contained therein had to be established by competent and credible evidence introduced at trial. Upon careful examination of the record before us, we find that no witness testified to having observed the appellant stab the deceased. No eyewitness identified him as the assailant. Rather, the prosecution relied principally of CCTV footage, fingerprint examination report, and the assertion that the appellant was the last person seen in the deceased's company before her death.

Against these well-settled principles of law, we now examine the prosecution's evidence. Regarding the CCTV, the prosecution testified that the appellant was the one seen in the CCTV footage with deceased entering a zinc shop and no one entered the zinc shop after the appellant and the deceased entered. The records show that the appellant consistently admitted accompanying the deceased during the afternoon and evening of May 15, 2022. He testified that he escorted the deceased on the road and placed her on commercial motorbike approximately 7:00p.m. and thereafter returned to his residence and was not with the appellant after 7:00pm and therefore could not have been the individual in the CCTV footage the time the prosecution alleged the deceased was being murdered that is 7:38 pm as alleged in the indictment and 2:00am in the Investigative Report. This testimony was corroborated by the appellant's second witness, Madam Gurley Russ and never rebuttal. When the testimony of defendants in a criminal case is not in any respect rebutted by the prosecution, such testimony is entitled to some legal weight in favor of the defendants. *Dennis et al v RL 20 LLR 47 (1970)*. Portions of the prosecution's own evidence and the CCTV placed the appellant in the company of the deceased only up to approximately that same period.

More importantly, the evidentiary record fails to establish that the surveillance recording was sufficiently clear and reliable to permit positive identification of the individual appearing therein after 7:00 pm. The appellant expressly denied that the person shown in the recording was himself, asserting instead that the individual more closely resembled Romeo Tamba, the deceased's former boyfriend. The State produced no expert witness qualified in digital image analysis to authenticate the recording beyond its ordinary production. No enhanced images were introduced into evidence. No forensic comparison of the physical characteristics of the individual depicted was undertaken. No witness testified that the recording unmistakably established the appellant's identity. Consequently, the jury was left to determine identity solely from its own viewing of a recording whose clarity remained in dispute throughout the proceedings. This Court is mindful that modern surveillance recordings frequently constitute valuable evidence in criminal prosecutions. Nevertheless, where such recordings constitute the principal evidence identifying the accused, their reliability must be demonstrated with sufficient certainty to satisfy the constitutional standard of proof beyond a reasonable doubt. A conviction cannot rest upon speculation arising from indistinct images capable of differing interpretations. In *Heith v. Republic*, 39 LLR 50 (1998), this Court reiterated that a criminal conviction must be supported by proof of every essential element of the offense beyond a reasonable doubt. Likewise, in *Davies v. Republic*, 40 LLR 659, 675-676 (2001), we reaffirmed that every material fact constituting the crime charged must be proved beyond reasonable doubt before a conviction may lawfully stand.

The appellee's witness further testified that the appellant was the last person seen with the deceased. While this argument possesses superficial appeal, it cannot withstand careful legal scrutiny. Evidence that an accused was last observed with a deceased person is merely one circumstance to be considered alongside all other evidence in the case. It does not create a legal presumption of guilt, nor does it relieve the prosecution of its continuing obligation to establish every essential element of the offense beyond a reasonable doubt. Indeed, if the "last seen" doctrine were treated as conclusive proof of criminal responsibility, every person who happened to be the final known companion of a homicide victim would effectively bear the burden of disproving guilt, a proposition wholly inconsistent with the presumption of innocence guaranteed by *Section 2.1 of the Criminal Procedure Law and our Constitution*. For the doctrine to possess significant

probative value, the prosecution must establish an uninterrupted sequence of events demonstrating that the deceased remained continuously in the exclusive company of the accused until the commission of the offense, thereby excluding any reasonable opportunity for intervention by another person. In other words, the surrounding circumstances must eliminate every reasonable hypothesis consistent with innocence. The record before us fails to satisfy that demanding standard.

Equally significant is the evidence concerning Romeo Tamba, the deceased's former boyfriend. The record reveals that the defense sought to introduce testimony tending to show that the deceased had previously complained that Romeo Tamba persistently harassed her in an effort to revive their prior romantic relationship. The defense further alleged that telephone records showed communication between Romeo Tamba and the deceased shortly before the estimated time of death. The trial court sustained objections limiting inquiry into this line of evidence. Ordinarily, the prosecution is not required to disprove every speculative possibility suggested by the defense. However, where evidence identifies another specific individual as a plausible suspect and bears directly on the central issue of identity, such evidence assumes heightened relevance. A criminal trial is fundamentally a search for the truth. Accordingly, evidence tending to establish motive, opportunity, or possible involvement of another identifiable individual should not be excluded where its exclusion substantially impairs the accused's constitutional right to present a complete defense.

Whether Romeo Tamba ultimately committed the offense is not the question before this Court. Rather, the question is whether the State sufficiently eliminated that reasonable possibility before obtaining a conviction. This Court emphasized in *Sirleaf v. Republic* (March Term, A.D. 2012) that the presumption of innocence remains with the accused throughout the proceedings, and the State bears the continuing burden of establishing guilt beyond a reasonable doubt before a conviction may be sustained. That burden cannot be satisfied by inviting a jury to choose between competing possibilities where the evidence leaves genuine uncertainty regarding the identity of the perpetrator. Accordingly, we hold that neither the CCTV evidence nor the "last seen" circumstance, whether considered separately or collectively, established beyond a reasonable doubt that the appellant was the person who unlawfully caused the death of the deceased.

Further, investigator Raffell A. Wilson testified that a forensic fingerprint examination established that the fingerprints recovered from the knife matched those of the appellant. However, a careful examination of the evidentiary record reveals a material inconsistency between the witness's testimony and the documentary evidence admitted at trial. The Crime Scene Examination Report indicates that only one identifiable fingerprint that of the appellant's middle finger was recovered from the alleged murder weapon. This distinction bears directly upon the weight and reliability of the forensic evidence. The prosecution offered no satisfactory explanation as to how a knife allegedly used to inflict multiple stab wounds upon the deceased would bear only a single identifiable fingerprint attributable to the appellant. Sadly, the individual who conducted the forensic examination on the alleged murder weapon was not called to testify as to how it is possible for only one identifiable fingerprint that of the appellant's middle finger was recovered from the alleged murder weapon, or any other expert called to explain the possibility. Witnesses may testify only to facts within their knowledge, except for expert witnesses, who may testify as to their opinions on subjects concerning which they are qualified as experts *Ammons v RL 12 LLR 360 1956*. A witness, not called as an expert, may depose to facts only, not to opinions. *Ledlow et al v RL 2 LLR 569 (1925)*. Witness Wilson was not introduced as an expert and could not testify as one regarding the CCTV footage image and the forensic examination report. In addition, the indictment expressly alleged that the deceased was murdered at approximately 7:38 p.m. on Sunday, May 15, 2022, whereas the Crime Scene Investigation Report estimated the time of death at approximately 2:00 a.m. on Monday, May 16, 2022. Our jurisprudence has consistently recognized that a substantial variance between the allegations contained in an indictment and the evidence adduced at trial may constitute reversible error where the variance concerns a material element or circumstance of the offense. Time is often an essential circumstance in criminal prosecutions because it bears directly upon the accused's opportunity to commit the offense and upon the reliability of the surrounding evidence. In *S. Flomo v. Republic*, 26 LLR 51 (1977), this Court held that a material discrepancy between the pleadings and the proof requires reversal of a criminal conviction. Likewise, in *Gissie et al. v. Republic*, 28 LLR 276 (1979), this Court reaffirmed the settled principle that criminal indictments must be proved substantially as charged, and that the proof must correspond with the allegations upon which the accused was called to defend himself.

In the present case, we find that the evidentiary chain relied upon by the State contains several significant and irreparable deficiencies: the identity of the individual depicted in the CCTV recording after 7:00 pm remained uncertain and disputed; the fingerprint evidence was materially less conclusive than the prosecution's testimony suggested; and the prosecution failed to reconcile the material inconsistency concerning the estimated time of death. Suspicion, even strong suspicion, is not evidence. Probability is not proof. Moral certainty cannot substitute for legal certainty. Criminal convictions cannot rest upon the belief that the accused was probably guilty; they must rest upon evidence establishing guilt beyond a reasonable doubt. As this Court observed in *Heith v. Republic*, 39 LLR 50 (1998), a judgment of conviction must be supported by proof of every essential element of the crime beyond a reasonable doubt. Likewise, *Section 2.1 of the Criminal Procedure Law* unequivocally provides that where reasonable doubt exists as to the accused's guilt, he is entitled to an acquittal.

In the instant case, the evidentiary chain relied upon by the State contains several significant and irreparable deficiencies which created a strong reasonable doubt that should operate in the appellant's favor. Hence, the trial court was in error when it upheld the jury's verdict and ruled the appellant guilty of murder. The appellant is ordered released forthwith from further answering to the charge of murder for which he was tried. We further direct that his bond, if any, be returned to him.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the ruling of the trial court is hereby reversed, and the appellant is ordered immediately released from further detention. His civil rights, liberties, and all other constitutional and statutory rights are hereby restored. The Clerk of this Court is ordered to send a Mandate to the trial court, commanding the judge presiding therein to resume jurisdiction over the case and give effect to the judgment of this Opinion. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS T. JOSEPH B DEBBLAY AND JALLAH G. ZUMO, WILLIAM MOORE JOHNSON APPEARED FOR THE APPELLANT. COUNSELLORS AUGUSTINE C FAYIAH AND NYONKPAO R. G. DAYE OF THE MINISTRY OF JUSTICE APPEARED FOR THE APPELLEE.