

**CHARLES H. DUNBAR**, Appellant, vs. **REPUBLIC OF LIBERIA**, Appellee.

**LRSC 2; 1 LLR 269**

[January Term, A. D. 1895.]

*Appeal from the Court of Quarter Sessions and Common Pleas, Sinoe County.*

False Imprisonment.

This case was tried in the Court of Quarter Sessions, Sinoe County, at its May term, 1894, and is brought before this court upon a bill of exceptions, for review. The exceptions taken below are as follows: First, "Because the court overruled a motion offered by the defendant below, praying an abatement of the indictment and process because of its uncertainty in setting forth the Christian name of the defendant and not describing him with certainty." Second, "Because the indictment contained abbreviations, whereas abbreviations are not allowed in indictments." Third, "Because the indictment failed to show that the imprisonment alleged was against the will of the party said to have been imprisoned."

The court takes occasion to say that the principle upon which cases are determined by the highest judicial tribunals of the world, under pleas of abatement for uncertainty in describing and identifying defendants, is so well known to the common law practice that we deem it unnecessary to enter upon it. In this case the defendant below was indicted and arraigned for false imprisonment, in due form; during the trial he motioned the court to abate the indictment, because it was vague and uncertain in that he was called in the indictment C. H. Dunbar, and if he, the defendant, was meant in the indictment, his name is Charles H. Dunbar.

This court is of the opinion that all indictments should set forth with clearness the Christian and surname of the defendant, so that he may be described and identified beyond doubt, and if his name is not known to the jury in the indictment, so as to describe and identify him, the indictment should state that his name is not known. This plea, upon which all others contained in the motion depended, was in the opinion of this court well founded and should have been sustained by the court below. Therefore, the court below erred in overruling this plea. Again, the court below in passing upon this motion also ruled that the defendant in answering at the arraignment waived all legal objections thereto. We are of the opinion that this ruling is erroneous, because the defendant was bound to appear, by law and practice, to answer and then put in his plea or objections, and his failing to do so, however wrong the name by which he was called, on motion made to the court, judgment by default could be demanded and obtained against him. The consideration of these points

shows clearly that the trial below was not conducted according to law. Therefore, the court adjudges that the judgment rendered by the court below be and the same is hereby reversed.

Key Description: Abatement and Renewal (Defects and objections which may be waived; Misnomer or misdescription of party)