

J. B. C. ROYE, Appellant, vs. THE REPUBLIC OF LIBERIA, Appellee.

LRSC 1; 1 LLR 236

[January Term, A. D. 1892.]

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

Murder.

The law will not allow greater force to be used than is actually necessary to eject a trespasser. Where on a trial for murder the prisoner proves that the deceased was a trespasser, this fact of itself will not justify the killing, where it does not appear that the person or property of the prisoner was in imminent peril and danger, and that the killing was necessary to save prisoner's own life or to preserve limb or protect property.

The case presents some very peculiar features, to determine the nature of which the court has been compelled to resort to researches to find one of the like cases reported. When the deceased entered the house of the prisoner, regardless of his request not to do so, and took from therein the clothes of the prisoner's wife, it was an act unwarranted by law, for a man is commanded to leave father and mother and cleave unto his wife.

The inference of the Divine command is that there is none so dear to us as father and mother, and since we must leave them, we must look upon all others as strangers in regard to our obligation to our wives and family affairs. The deceased's conduct in this respect is looked upon by the court as a trespass upon the premises of the prisoner, and an utter disregard for his manhood and pride, although the acts referred to do not warrant the prisoner's acts in resorting to such violence. To impartially consider this case as presented to us in the bill of exceptions has been our great aim and we have arrived at such a conclusion as is supported by the law of the land. In this case the appellant, J. B. C. Roye, is charged with having committed the crime of murder, the highest and most heinous offence of which one can be charged, the very mention of which causes human nature to revolt.

The record from the court below shows that at the December term of the Court of Common Pleas and Quarter Sessions, Montserrado County, 1890, the appellant J. B. C. Roye was indicted by the grand jury of said County for the murder of Lionel E. A. Roye, a citizen of this Republic, to which indictment he was held to answer; and the facts were submitted to the determination of a jury, consisting of twelve of his peers, which jury, having heard the testimony presented at the trial, concluded and returned a verdict of

"guilty" against the said J. B. C. Roye, the appellant. Upon this verdict the court pronounced the sentence of the law in such cases made and provided.

During the trial several exceptions were taken by the appellant to the rulings of the court, as well as also to the final judgment rendered, and upon which exceptions this case is brought to this court for review. With great care we considered the several exceptions taken in this case, and do not see such grounds in the exceptions as would have led the jury to come to any other conclusion than that which is expressed in their verdict. Doubtless the court below did err in ruling that what was stated by the appellant, at or about the time when the killing took place, in relation to the deceased breaking open his door, was hearsay. Yet this fact, if allowed, does not destroy the law which condemns the use of greater force than is required to eject a trespasser. We take occasion to repeat this doctrine of law. Testimony is intended to demonstrate and present in clear light the truth or falsehood of an accusation, hence all evidence should be confined to the points at issue, and testimony irrelevant ought not to be submitted to the jury, as such might tend to lead them from the truth and justice of the case under their consideration.

This court says further: In trials for murder a plea of justification upon the doctrine of one's right to defend himself may be plead, but such a plea, when set up, must be supported by testimony, to warrant a reasonable conclusion that the act of violence employed, or the act of killing, was done to save the person's own life or to preserve limb, or protect property from the spoliation of an assailant whose act of violence put the slayer in peril of his life or of great bodily harm. Under such circumstances, the slayer may be justified in slaying his assailant or trespasser; but in the absence of such proof, the court would have erred in directing or instructing the jury in favor of said plea on the laws bearing on this point, since the instruction of the court furnishes an important species of evidence to the jury.

As to the verdict and new trial. This court says where the verdict of a jury is manifestly against the weight of the testimony, the law, or the legal instructions of the court, such verdict ought to be set aside and a new trial granted; but where, by the verdict, substantial justice is done, such verdict should not be disturbed. The verdict in this case to us is in harmony with the truth and justice of the case, and is supported by the evidence, and hence the court below did not err in refusing a new trial.

Viewing from every standpoint the proceedings of this trial, from the commencement to the end, this court finds it to be its painful duty to affirm the judgment of the court below. Therefore, this court adjudges that the judgment of the court below rendered in this case is affirmed, and the clerk of this court shall issue a mandate informing the court below of the affirming of the judgment.

