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

LRSC 6; 1 LLR 528

Murder.

[January Term, A. D. 1892.]

COURT'S RULING ON MOTION TO DISMISS APPEAL.

Statutes must be strictly construed as to intention and effects, therefore when any statute or part of it conflicts with the words, meaning and spirit of any constitutional provision, because of it, want of applicability to the case in which it is desired to be applied, such statute, or such part of it affected by the constitutional provision, can have no legal bearing in such a case. The Constitution, being the greatest and highest law, predominates, or destroys the power and effect of the statute or any part of it which conflicts with any of its provisions in that particular case; therefore, we say, the Constitution forbids the taking of bail in capital offences, which entirely excludes the idea of an appeal bond of indemnification, or any other bond, as it would be without authority, and in violation of the Constitution. Our statute on appeal provides for both civil and criminal cases; in its use and application it must be reasonably construed to meet the nature of the case under its direction. Hence we say the second plea in the motion is insufficient.

In regard to the third plea, the court is of the opinion that a writ in the hands of the County Attorney which has not been returned to the court is not within the legal embraces of the court, whether such a writ be issued by the Justice of the Peace sending up the case for trial, or by the court from which the appeal was taken. Therefore, the court says, the clerk was only bound to give a true copy of the record and proceedings of the case before the court. And this court, to make its position more plain as to this last plea in the motion that is before it, does say that a court, according to the Statutes of Liberia, is composed of the

judge, clerk, and its seal. Hence the County Attorney is no part of the court proper; he is only an attorney, or prosecutor for the county.

The court further says the necessity of issuing a writ of arrest against a felon already apprehended and held in custody for trial, does not exist. His subsequent indictment is sufficient to warrant an arraignment and trial. Therefore, the court does not sustain the motion to dismiss the case.

Supreme Court, February, 1892.