

STRALATUM E. F. CADOGAN, City Magistrate, prisoner, Appellant, vs.
REPUBLIC OF LIBERIA, Appellee.

Bribery.

[January Term, A. D. 1890.]

Before His Honor C. L. Parsons, Chief Justice, and the Honorable Associate Justices, H.
J. Neyle and Z. B. Roberts.

MOTION TO DISMISS APPEAL.

Stralatum E. F. Cadogan, City Magistrate, prisoner, appellant in the above entitled cause, most respectfully motions this honorable court to arrest the judgment, in toto, of the lower court in the above case of appeal, in which S. E. F. Cadogan, City Magistrate, prisoner, is appellant, and the Republic of Liberia appellee, because the said judgment would work great injustice to the said S. E. F. Cadogan, City Magistrate, prisoner, if not arrested, for the following reason : Because it does not appear on the face of the record in the above case that any return has been made upon the writ of arrest according to law upon which the said S. E. F. Cadogan, City Magistrate, prisoner, was arrested and tried, hence the court had no jurisdiction to proceed in the trial of the same, as will more fully appear by inspection of the record of the case, filed in the office of the clerk of this honorable court.

Respectfully submitted,

S. E. F. CADOGAN, City Magistrate, prisoner, Appellant.

COURT'S RULING.

This is an appeal case from the ruling and judgment of the Court of Quarter Sessions, Montserrado County, on an indictment for bribery at the March term of said court, 1889. At the call of the case the appellant offered and submitted for the consideration of this court a motion praying a final arrest of judgment of the court below, because the record did not show any return of the writ upon which the proceedings against him are founded. The counsel for the appellee resists this motion by showing that an arrest of judgment, legally speaking, applies to courts of original jurisdiction, before the rendition of the

In viewing the circumstances surrounding this case and the nature of the charge, we find that there is a great distinction between it and the cases cited by the counsel for the appellee, they being civil cases, and the one under consideration, criminal. Therefore, there must be a difference in principles applicable to the case.

When the life, liberty or character of a party is at stake, the court will, in keeping with a strict rule of justice, lend its aid to the discovery of any obscure fact that has a tendency to prevent a fair trial. A trial at law is the examination before a competent tribunal. The jurisdiction of the court over suitors and offenders is conferred by law, and this power is exercised by means of a writ, which is a mandatory precept issued usually in the name of the sovereign state, directed to a ministerial officer, who must not only serve it, but make return of the fact that it had been served. As this puts the person named in the writ under the jurisdiction of the court, therefore courts of justice *ex officio* are bound to notice the writ or foundation of their jurisdiction over the parties, and at any stage of their proceedings before final judgment, for want of jurisdiction, may entertain and sustain a motion to arrest judgment.

From the record it is clear to the mind of this court that the writ issued in this case has not been returned, hence the court had no jurisdiction over the person of the prisoner. Without further observations this court feels bound by law and a strict rule of justice to say that the trial below has not been conducted according to law. Therefore, it is hereby adjudged by this court that the judgment of the court below in this case is reversed and rendered void.

Supreme Court, January Term, 1890.