

**Pastor Brima J. Fartoma** APPELLANT / DEFENDANT VERSUS **The Republic of Liberia** APPELLEE / PLAINTIFF

APPEAL FROM THE FIRST JUDICIAL CIRCUIT, CRIMINAL ASSIZES 'B'  
MONTSERRADO COUNTY, REPUBLIC OF LIBERIA. JUDGMENT  
AFFIRMED.

LRSC 7 (2011)

HEARD: November 24, 2010. DECIDED: January 20, 2011.

MR. JUSTICE JA'NEH DELIVERED THE OPINION OF THE COURT

Bishop Alfred John Quao, Overseer of the World Mission Ministry comprising pastors of various churches and denominations, was reported murdered on Sunday May 25, 2008. Investigators reported that the gruesome killing occurred at the Bishop's residence in Logan Town, Bushrod Island, Montserrado County, at about 11:30 p.m. or thereabout.

Abraham B. Ricks, Montserrado County Coroner, examined the victim's body and described the injuries inflicted thereon in a report transmitted on June 8, 2008 to the County Attorney, Samuel K. Jacobs, Esquire. The report, *inter alia*, states:

*"The head was seen with four (4) [stabs], one (1) on the mole above 1% cm long and about a centimeter deep. Two (2) stabs [were] seen on the side of the head each about a centimeter long and the same measurement deep. The last stab on the head was seen around the vicinity of the MENDULA about two (2) centimeters long and about a centimeter deep. The corpse was stabbed twice on the neck that caused the esophagus to be visually seen..."*

Officers of the Liberia National Police (LNP) Homicide Squad investigated the incident and arrested two persons, Pastor J. Brima Fartoma and Samuel Amofa. In September 2008, the Grand Jury of the First Judicial Circuit Court for Montserrado County indicted the two men for the *MURDER* of Bishop Alfred John Quao.

The court granted defense motion interposed by appellee to advance the case on the docket. Without resistance from prosecution, the court also granted separate trial for Appellant/Co-defendant Brima Fartoma. Exercising its right granted under section 18.1, I LCLR, title II (Criminal Procedure Law) (1973), appellee, the Republic of Liberia filed a motion to *nolle prosequi* co-defendant Samuel Amofa. Said motion was granted by the trial judge.

Section 18.1 of our criminal procedure code, referred to above, provides: *"The prosecuting attorney may by leave of court file a dismissal of an indictment or complaint or of a count contained therein as to either all or some of the defendants. The prosecution shall thereupon terminate to the*

*extent indicated in the dismissal."*

Thereafter, Pastor J. Brima Fatorma, appellant in these proceedings, was regularly tried and found guilty upon a majority verdict of ten (10) petty jurors. Defense motion for a new trial was resisted by the appellee and denied by the court. On April 20, 2009, His Honor Yussif D. Kaba, presiding by assignment, entered final judgment confirming the verdict and sentenced the appellant to life imprisonment.

This Court desires to remark here that the new Jury Law published February 16, 2006 allows conviction on concurrence of ten (10) jurors in criminal cases. Nevertheless, said law forbids imposition of the highest penalty in all capital offense trials where a unanimous verdict *has* not been procured. Section 23.7 of *the Jury Law in relation to the "Judges Authority"*, provides that: *"In all criminal cases where the maximum penalty is Death or Life Imprisonment, and the verdict is not unanimous, the judge shall not impose a death penalty."* [Emphasis Added].

Otherwise, appellant's fate was death by hanging in harmony with Section 31.1 (2) of I LCLR title II (Criminal Procedure Law) (1973). This provision directed Liberian courts to *"sentence a person who has been convicted of a capital offense (as in the instant case of murder) to death by hanging."*

Dissatisfied, appellant noted exceptions to the final judgment and was subsequently granted appeal. Hence this case is before us.

The indictment upon which appellant was tried and convicted in substance, reads as follows:

*"That on Sunday, the 25th day of May, A.D. 2008, at about 11:30 p.m. and/or thereafter, in the suburb of Logan Town, Monrovia, County and Republic aforesaid, the defendants Samuel Amofa and Brima Fartuma did cause the death of another human being, to wit: the late Bishop Alfred John Quao under circumstances manifesting extreme indifference to the value of human life to wit:*

*"...that the defendants hereof, on the day, date and time hereinabove mentioned, codefendant Samuel Amofa, a Ghanaian national, while cohabitating, living with and residing in the residence of the decedent, the late Bishop Alfred John Quao, in the Logan Town suburb, Bushrod Island, Monrovia, Montserrado County and Republic of Liberia, did open the main door of the late Bishop Quao's residence to allow, permit and enable perpetrators to enter therein and kill the late Bishop Alfred John Quao.*

*And that the Grand Jurors aforesaid, upon their Oath aforesaid, do further present:*

*That co-defendant Samuel Amofa, who arrived into the Republic of Liberia, seeking a visa to facilitate his trip to the United States of America (USA), became very close to the late Bishop, Alfred John Quao, to the extent that the late Bishop entrusted him with confidential information as to sending him on errands to the banks and other places.*

*The Grand Jurors aforesaid upon their Oath aforesaid do further present: That because of the relationship between the late Bishop and co-defendant Samuel Amofa, and that co-defendant Brima J. Fatorma who had been lying in waiting in anguish against the late Bishop for acts allegedly perpetrated against him by the decedent, he, co-defendant Brima J. Fatorma established relationship with co-defendant Samuel Amofa; and as a result of which on two (2) occasions while co-defendant Samuel Amofa was on his way to the bank to transact business on behalf of the late Bishop, he was intercepted by co-defendant Brima J. Fatorma to cement their relationship. And on one of these occasions, Co-defendant Brima J. Fatorma gave seven hundred Liberian Dollars (LD\$700.00) to Co-defendant Samuel Amofa and promised to help him secure a visa to the USA, adding that the late Bishop cannot help him, co-defendant Samuel Amofa. The co-defendant, Brima J. Fatorma, further told co-defendant Samuel Amofa, that he, co-defendant Brima Fatorma, wanted to teach decedent, late Bishop Alfred John Quao, a lesson for his life. Therefore, co-defendant Samuel Amofa should leave the main entrance/door unlocked to allow co-defendant Brima Fatorma enter into the house, on the night of Sunday, May 25, 2008 to accomplish his wicked and criminal desire.*

*And that the Grand Jurors aforesaid upon their Oath aforesaid do also further present that on Sunday, May 25, 2008, at about 11:30 p.m. and/or thereabout and as per arrangement and agreement already made between co-defendants Samuel Amofa and Brima Fatorma, reference to leaving the door open; he co-defendant Samuel Amofa, while decedent [late] Bishop Alfred John Quao was gone to bed in his bedroom, left the door unlocked and opened to allow co-defendant Brima J. Fatorma to enter the house; but instead of co-defendant Brima J. Fatorma entering alon[e], four (4) masked men entered into the house apparently in the company of co-defendant Brima J. Fatorma and enquired from co-defendant Samuel Amofa, who was on a stand-by awaiting the arrival of the accomplices; they, the masked men upon entering, inquired the whereabouts of the decedent, Bishop Alfred John Quao and they, the masked men, immediately went into the room of the decedent, dragged him out into the sitting room, stabbed him with an unknown deadly weapon on diverse parts of his peaceful body, thereby afflicting several wounds on the decedent's body, and fled the scene; as a result of which, he, decedent Bishop Alfred John Quao bled profusely and died while being rushed to the Hospital.*

*And that the Grand Jurors aforesaid, upon their Oath aforesaid further present: That the four (4) masked men after accomplishing their gruesome act, they, the four (4) masked men absconded the scene, leaving behind co-defendant Samuel Amofa and the badly injured and wounded Bishop Alfred John*

*Quao, who died immediately thereafter.*

*Wherefore, we the Grand Jurors aforesaid, upon our Oath aforesaid, do present that the defendants by their act, did without any color of right and/or legal justification whatsoever, criminally, purposefully and feloniously connived, conspired and caused the death of decedent, the late Bishop Alfred John Quao, and the crime of MURDER, they, defendants aforesaid, did do and commit Contrary to: 4 LCLR, Title 26, Section 14.1 (b) 4 LCLR, Title 26, Section 50.5 and 51.3 of the Statutory Laws of the Republic of Liberia and the peace and dignity of the Republic..."*

We desire to remark here, if only for the purpose of emphasis, that as the plaintiff in all criminal trials, the law in this jurisdiction imposes the *onus probandi* (burden of proof) on the State. *Dunn et. al v. Republic*, 1 LLR 401, 405 (1903); *Tendi v. Republic*, 12 LLR 109, 110 (1954); *Raynes et. al. v. Republic*, 36 LLR 203, 216 (1989).

Shouldering the burden of proof in this murder case, appellee deposed eleven (11) witnesses including five (5) rebuttal witnesses. Most of the witnesses largely recounted what the prime witness, Samuel Amofa, told them. It is also important to observe that Witness Amofa, for whom initial murder charges were dropped, admitted both during police investigation as well as in open court, of facilitating the commission of murder of the late Bishop Quao.

We therefore deem it sufficient to state in relevance the respective depositions of the lead police homicide investigator, George K. Quoi and the "inside" witness, Samuel Amofa.

Detective George K. Quoi, like other prosecution witnesses, testified that:

*"On May 25, 2008, the homicide squad received a call of alleged homicide which occurred in Logan Town Bushrod Island. A Ghanaian, Alfred John Quoi fell victim. Upon our arrival on the crime scene at which the late Bishop resided, we observed the front door with a steel gate locked from outside with a Yale lock. While trying to make our way to the crime scene, we heard the voice of defendant Samuel Amofa, between an ally of the victim and neighbor's house. "This ally was sealed up with a zinc fence. We broke our way from the fence and entered the scene. At the scene, we found the victim laying in his living room, between the living room chair and a table, in a pool of blood. He had several stabbed wounds on his head which penetrated his skull. He also had stabbed wounds under his left shoulder bone. On the crime scene, everything was intact; the cell phone was on the table and some facial scratch. The victim was later taken to the J.F.K. hospital where he was pronounced dead. We began our investigation as to what was the motive [behind the killing] of the Bishop. It could not be an armed robber but rather an assassination. We began to talk to Samuel Amofa. By then, he was serving as a*

witness. He stated to us in the initial stage [of the investigation] that he heard the cry of an unidentified lady. The lady said: "Bishop, Bishop help me; my son is dying." According to Amofa, the Bishop said to the lady; "take your son to any clinic because it is late; any expenses you make I will pay you back." According to Amofa, the lady said: "Bishop if you allow my son to die, the Lord will punish you." Just then, the Bishop walked through the door way and he Amofa came out to see what was going on. He said that he saw four (4) [persons] entering with mask on their faces; they [also] had cutlasses. This was Samuel Amofa's initial statement made. The investigators then protected Samuel Amofa because he could be the next target while the investigation was going on. Samuel Amofa was [therefore] entrusted with one Sam Nelson. During our investigation, we also gather that the victim Bishop Quo had a school and a church called Salvation Church. He was also part of an organization called World Mission. This organization consists of lots of parts of different churches. The Bishop was the overseer at that time. Defendant Brima Fatorma is also part of that organization; he was the General Secretary that had his office in the house of the Bishop. While Samuel Amofa was with Sam Nelson, on June 1 st 2008, he received a text message on his phone from defendant Samuel. It was a threat. The text message said he [the Bishop] was stubborn so he had to die and if you say anything too you will follow him. The investigators then became furious on Samuel Amofa.

He made several statements: that on the 24th day of May, A.D. 2008, while he was on his way to ECOBANK, he came across Brima Fatorma at the New Logan town junction. That Brima Fatorma asked him "where are you going"; according to him, he told defendant Brima Fatorma that he was going to the bank. Bishop had sent him to the bank. According to Amofa, Brima Fatorma then asked him: "how are you and Bishop?" He said they were all fine and in fact Bishop had promised him to travel abroad. According to Samuel Amofa, Pastor Fatorma told him that "are you sure Bishop will help you?" Bishop is a liar and a thief; he just wants to eat every cent from you if you ever brought money. In fact, he, Fartorma asked; "how can [the Bishop] help you when you are not part of the World Mission? But he, Fatorma, can help him to travel abroad.

According to defendant Samuel Amofa, Pastor Fatorma asked him for his cell number. While defendant Amofa was in the bank, Defendant Fatorma gave him a call and he asked: "is this your number?" Fatorma said: "no, but I will call you [back] to give you my number. That was on the 24th day of May. On May 25th on a Sunday evening, while Defendant Samuel Amofa was standing on the porch of the victim's house, Defendant Brima Fatorma was on the road right before the Bishop house, the victim house. Defendant Brima Fatorma was on the road right before the Bishop house signaling unto him (defendant Samuel Amofa) and Amofa went to him. Defendant Fatorma asked-defendant Amofa when do you people usually go to bed? He said the latest 9:30p.m. According to Samuel Amofa, defendant Fatorma told him that; "I will come to your house this evening and when you hear a knock on your door, "please open for me; I want to teach Bishop a lesson in my own way because he is a cheater. He then gave Amofa LD700.00 and left. At 11:30p.m. that evening, Amofa heard this knock. He himself opened the door and to his outmost surprise, saw four (4) men entering

*the house wearing mask with cutlasses. He was shocked [and said to himself] "the men asked him where is he? Defendant Samuel Amofa said he is in his room and they shoved him and passed. He defendant Amofa went in his room. While in his room he heard the crying of the Bishop, saying Archie, Archie, saying oh God, oh God. After he came out to see what was happening, the men had left and they locked the door from the outside and went. Defendant Amofa went to the Bishop and found him dead. He started calling all the familiar members. This is how the news spread. Upon our investigation also, we gather that defendant Brima Fatorma was at logger-head with the Bishop for reasons best known to him, Fatorma. We also gather that Brima Fatorma had stopped going to meeting and was not speaking to the late Bishop. After the statement from Samuel Amofa, we then confronted Brima Fatorma who told us that he had never seen Samuel Amofa before. He also said that was the very first day he saw Samuel Amofa. We also gather on the day of the incident, few seconds after, the overseer Bishop aboard of the World Mission received a call from Defendant Brima Fatorma telling them about death of the late Bishop Quo, few seconds before the overseer Bishop received this call, the overseer did not know how Brima got his number and how he got to know because he was not in the house. Again the investigators received a fake document from Brima Fatorma telling him that he should take over immediately as a Bishop which was a story. The investigation had no alternative but to charge defendant Samuel Amofa and Brima Fatorma of MURDER..."*

Other state witnesses basically narrated similar accounts. Specific as to the actual commission of the crime, Government witnesses substantially related what they were told by Samuel Amorfa, the "inside witness". Mr. Amorfa is believed to be the only person situated to shed light on the actual happenings on that fateful day. We therefore find it appropriate to quote verbatim the relevant part of Witness Samuel Amofa's deposition.

*"I arrived in Liberia on April 13<sup>th</sup> I came here to get a visa to travel to the United States, because that was my dream since my college days. But the information I gathered in Ghana concerning acquiring visa in Liberia here was quite different from what I met here as a reality. Since it was not easy to get the visa easily I decided to find a job. The Bishop had a school and I happened to be a professional teacher and I approached him. He employed me as a teacher in the school. So that was my first contact with the Bishop. In our conversation he got to know that I was a musician too. Because of that he had interest in me. He said to me that he also have a church which need instrument list so he will pay me for that if I can come to his church and play for him. I told him that I have no permanent place living now so I am looking for a place; that my main purpose in Liberia is to get a visa. He said that if I will stay with him and help him in the school and in the church he will secure me a visa. He invited me to the church. After the service he introduced me to the church that I am his son from Ghana and I will here in six months period before going back home. So that was when I started living with the Bishop. One Saturday morning I was sleeping when came to wake me up and he said if there is anything I want to do that very morning I must do it quick because he is going to have meeting in the*

house and that he did not want any disturbance. He further explained to me outside the church with the association of pastors and they are the very people coming for the meeting that morning. We were watching television when some people started arriving. Because he said he did not want any interference, I took chair on the porch to sit down there, while sitting down there somebody tapped my shoulder behind me and when I turned I saw Mr. Brima Fatorma. He asked me you lived here? I responded yes. He asked whether I am a relative to the late Bishop? He said no, I am only a Ghanaian. He also introduced himself to me as Rev. Fatuma and that he was member of the World Mission. Fatuma said that he want me to be his friend and that after their meeting we will talk. Unfortunately after the said meeting I was not around.

That made it my first contact with Pastor Fatuma. Few days afterwards I was walking around, Logan town deport, I found Pastor Fatuma he crossed over to me and we shook hands and he asked me how I was feeling in Liberia? I said well it is an experience. He said by the way, the Bishop treat you well in terms of feeding and other things? I told him that the Bishop is like a father to me and that he respect me also as a teacher. The Bishop had even said that he will help me to process my travelling documents. Then Fatuma said like how? I told him that the Bishop said he will make a volunteer of the World Mission, so after the period of six months he will use that privilege to pursue the Bishop in America to assist me in that direction. When the Pastor (Fatuma) began alarming and he said I quote "That lie, this man again, let me tell you something my son Bishop will not be able to help you, he will squander your money and later narrate long stories. We know the man so sometime I fell bad when he treat people bad. But thank your stars that God send me to you." He asked me whether he (Bishop) had taken money from me? I said yes. I said the whole process will take US\$3,000.00. But to prepare the volunteer I.D. card for me I have to give US\$300.00. Fatuma said you just a little boy you do not know anything, we are men and not only that he had stayed with the Bishop for long. I then thanked him and he assure me that he will (Fatuma) get me the visa that will cause less and that he will not take any money from me except the documents are finished. I became very interested, once it is not my money he is using, I became interested. He told me that he will find me later so that we will talk more. I thanked him and we departed, while staying with the Bishop the Bishop disclosed lots of his things to me, concerning his past experience and future plan, to the extent that he send me to the Duala Bank and deposited about LD30,000.00 in his (Bishop) account. That was the first transaction between me and the Bishop. The next time the Bishop sent me to go and withdraw money for him by then he had finished with the I.D. card of the World Mission for me. That was the particular I.D card he give me to go to the Bank. On my way to the Bank I got to Logan Town Cinema there is a side where the motor cycles parked on the road. I heard somebody calling my name Samie, Samie, it was Pastor Fatuma who was calling me. I was even happy to see Pastor Fatuma because I wanted to show him the I.D. card the Bishop fixed for me, also to prove the Bishop willingness to help me. But Pastor Fatuma said you are just a little boy and you do not know the world, if you want to catch a big fish you use a bit, so that I.D. is just there to fool you for your money. Fatuma further explained that the organization is not a one man organization, it is group of Pastors, I have to be confirmed and accepted by the other

groups before I can be recognized as a volunteer of that group. Fatorma further explained that those of them in the organization when they send them money from America, the bishop can step on the money and because of his bad intention anytime any of them would want to talk to the other Bishop in America it ought to be in the Bishop residence and his phone. Because of me being in similar situation of people duping me I give my thought to Pastor Fatorma. Fatorma further said that since the situation had been happening and that Bishop must be stopped. But the only thing is that I must help myself so that he can help me. What Fatorma means is that I have to lead him (Fatorma) to the Bishop since of late the Bishop had been avoiding him, even he want to come to the house there and the Bishop get to know him, the Bishop will not allow him to get inside and that is very important on our side that he meet with Bishop and talk with him and teach him a lesson of his life. Because of that I decided I like that I will give him the chance to meet with the Bishop so that whatever may be discussed between them I can hear it myself and made a decision from there. Pastor Fatorma continue that that very day, it was on Saturday, it was a very busy day for him and the next day which is Sunday it will be appropriate for him to come, but he wanted the day's work finish and the convenient time will be in the evening. He further said that whatever we discuss must be a secret between him and I, but he knows our house there that we close our mean door quite early, since the Bishop will not let him in he will come to knock on the door, I should come and open for him before the Bishop open the door. So by the time the Bishop will know that it was him he will be already in the house. I questioned him that since you do not have good relationship with the Bishop as late if I come to open the door without his concern he will get mad seriously with me. It may suspend the preparation of my documents and I may be put out of the house. He then assure me that the Bishop will not be angry but if he must tell the Bishop that I heard the woman crying for help so with that urgency that will make me to open the door. By then he had crossed from the motor cycle side to the other side. He said he will talk to me later and that I must give him my numbers, he took a paper and he wrote my number. When I was getting in the car he placed money in my hand that I must use it for cool water. In the car I open my hands and checked the money and it was LD\$700.00. That alone has my interest'in him that Pastor Fatorma is a good man. Before then he said he will see me in the evening I should wait for him when he is passing by he will call me. I was also interested in seeing him because I took him to be a good man. That very evening after our supper I went to sit on our porch and watching to see him. After sometime I saw him and he called me and I went to him (Fatorma) and say he was about to call me but once and he called me and I went to him (Fatorma) and he said he was about to call me but once he see me there is not need of calling me. Fatorma say he came to remind me that the next day which was Sunday and that he had even seen some of his friends who are expert in visa processing, so on Monday he will come for my passport size photos. I was happy because at least my dream had come true. On Sunday as usual we went to church but the Bishop did not have the mean service in the Salvation church. In the morning, the Bishop told him that he wanted to carry me to the church he was attending that morning but nobody will be in the Salvation Church to play the organs so I should wait or stay. After the Sunday school teaching the Bishop took his items and went in a taxi. After church that very day I cook the food, after we had finished eating the Bishop and I sat down and have



a conversation until it was late. So around 9:00p.m. I said the man is not coming (Pastor Fatorma) which I made a mistake and did not take his number to ask if he was not coming. I was there when the Bishop told me to put off the generator and it was time to sleep. After I got into my room after some time later around 10:00-.m. or after I then heard the knock by then I was not sleeping and where I sleep when you coming through the mean door, I then got to the gate because I knew it was Pastor Fatorma coming, by then I did not open the door, I told Pastor Fatorma that the man you coming to is asleep now and then he Fatorma insisted that I must open the door for him to show me something before he go. When I opened the door Pastor Fatorma came in first he asked where is Bishop and I said the man is in his room sleeping now. Right there three (3) persons jumped in they held flash light, when they came in the first question they asked was where is the Bishop? For fear I directed them inside by pointing my finger. To my surprised Pastor Fatorma left the particular place when the mean came in, not knowing the Bishop heard and he was coming to the door, the three (3) persons met him to the next gate and they went inside with him. While there I was standing and confused because I do not know what was going on. By the rain had already started falling. While I was contemplating on Pastor Fatorma and the three (3) persons I was really confused, I wanted to jump outside. At that very instant another person entered with a mask but in a short trouser and he just passed by me and entered into the house just like someone that knows the house very well. Because when Pastor Fatorma called me first to open the door he was in a short trouser and the person who passed me without asking any question entered the place where the Bishop was this convinced me that it was Pastor Fatorma being the fourth persons that entered. I was thinking why this time a mask and that very moment I heard a scream of pain. I quote "Ajar" this 'mean to call someone in chwee dialect in Ghana. I said oh they are beating the man or what I will go to see that is happening in there but because of fear I did not enter in the house way but I stood by the next gate and look through to see them and I could see figures in the hall way but non look like the Bishop. What I heard one of them saying which voice sounds like that of Pastor Fatorma that you can fool people many times but not all of the time. After sometime they were stay talking in low voice and that particular moment fear gripped me because that was not what Pastor Fatorma told me to do. I wanted to run away but it was dark and it was raining very heavily. I felt that if they people finished what they were doing inside there and when they reached me they will finish me. So there is bathroom next to my door and I went in there. While in the bath room I saw the four (4) persons coming out without the Bishop. I heard one saying that the boy ran away but Pastor Fatorma said I will get in touch with him. But for fear I did not answer them. Then I went outside and closed the door. After some few minutes or so, I heard a division of motor cycle going towards Guinea yard way and not towards the police station. Another motor cycle started and went the same way. After some time I came out from the bathroom and went to the sitting room and when I got there the Bishop could not be found. I called his name but no respond. I could hear something like someone panting for breath. I took the flash light and I saw him on the floor and the blood oozing, but when I called he cannot respond and tell me anything. I was helpless and since I do not know anybody house to run to I picked my phone and there is one guy in the church they call Collins. I called him and said that some people jumped in the house, and Bishop is in a pool of blood dying so he should

come quickly so that we can carry him to the hospital. After some time I called him again to inquire whether he was coming or not he said he cannot come there alone he was organizing some people to come along with him. There is wooden door and an iron gate. When I got to the gate, I held the handle and felt that the door was locked. After few minutes Bro. Collins came with some other persons that I cannot remember. They called my name and said the door was locked and asked if they should open it from the outside. They also told me that the iron gate was locked with pad lock. I told them to burst it. They said they had also called the police to come. When the police came, there was no way for me to get out except they burst the zinc fence near the house to get through the back door. When they came in, they went to where the Bishop was lying. By then, it was too late to recover him. They carried me to Logan Town Deport where in the morning I was asked to write my statement. I realized now the Bishop who is to help me is now dead and the only person that I know is Pastor Fatorma and he is the same person that did this thing, and if I should call his name now my dream of traveling will stop. I will wait for him to hear from him why he had to kill the man. That very Monday morning, he came to see me at the Police Deport, but because the Police was around with other people I could not talk with him. But what he said was after giving my statement and when they put me outside, I should not follow anybody even the church elders; that he will prepare me to go back to Ghana. So at the police station, I did not say anything. That very day I was carried to Central to sleep there. The next day and because I did not want to mention Pastor Fatorma's name, I kept the statement that he told me to tell the Bishop "That a lady came to knock on the door [and] that it is why I opened the door." So once I gave that statement, I had the hope that Pastor Fatorma will come to see me [then I will] know how far he had gone with my documents. On that Tuesday, I was asked by the police to be with one of elders of the church. On Friday, we went back to the Bishop's house and the place was locked up. We went with the police to open up the place. After that, I went back to where I was staying. The elder that I was staying with pressurized me to tell him the truth if I know. On Sunday morning, he called me and we sat down. We talked but he wanted to know the circumstances surrounding the Bishop's death but I was reluctant. When we finished with the conversation, I heard a beep on my phone from my pocket, it was a text message and the message was threatening my life, that I will be killed if I don't shut up. The message had weight on me that very moment. I got a tip that I cannot do anything. Brother Nelson asked me what was happening; I did not want to show it to him. But since it concerned my life, I gave it to him to read it for himself. So what he said to me was that he will be leading me in the church [with] the phone to show it to the other elders. When I got to the church that morning, the police were around and I was arrested. When I went there, they questioned me. I was still reluctant to give them the true story. So I was in custody for two days without telling them the truth. I was very hungry in the jail with nobody coming to me because I needed to talk, because I cannot bear the guilt. So after I had that trust of the police, I opened up and narrated the story to them and was charged with murder."

In addition to the six (6) regular witnesses earlier deposed, as indicated earlier in this opinion, prosecution also introduced five (5) rebuttal witnesses seeking to impeach and

discredit witnesses introduced by the defense.

When the State rested reserving the right to introduce rebuttal evidence, defense took the stand and introduced six witnesses. First taking the stand in support of the "not guilty" plea was Pastor Brima Fatorma, the appellant/criminal defendant himself. Being critical to his own defense, we have quoted verbatim appellant's testimony in relevant portion as stated below:

*"I Rev. J. Brima Fatorma came to know the late Bishop, may his soul rest in peace, through one Pastor and friend Moses H. N. Collins. Immediately after the ceasing of the LURD civil war, Pastor Collins told me that he had been associating with a fellowship that is supposed to ordain Pastors. He encouraged me to be ordained in the fellowship. That's how I decided to be part of that fellowship called World Mission Ministry of Liberia, Inc. As I got in that fellowship, we had two days or more conference to acquaint us the new pastors to the fellowship on the functions and what would be the spiritual benefits of a member. We were interviewed by the International Overseer, Rev. Dr. Stephen Bush of the United States of America and all of us were ordained at 12 midnight along with the late Bishop, may his soul rest in peace. After the ordination in the presence of all of our well wishers and our church members present, that same late Bishop Alfred Quoi, may his soul rest in peace, who became the Bishop of Liberia for World Mission, was mandated to change the name of the church from Salvation Church of God to that of Potter House Community Church. The Bishop's attempt to implement said mandate was rejected by some members of the Salvation Church who mounted tension and pressure; hence said change of name did not take effect. We however started fellowship. After two years of fellowship, I was nominated and recommended by the pastors in the church to serve as Assistant Secretary General because of my punctuality and seriousness. Few months later, I was again promoted to the position of Secretary General because the brothers were pleased with my performance in the Ministry. The late Bishop and myself became close until even when I had my contract at the Irish base, I decided to ask whether some pastors from the fellowship could work along with me; but there was no way because many of the pastors did not have construction (building) ideas. It was this intimacy that led me and the Bishop, may his soul rest in peace; whenever he wanted to go anywhere, he will call on me. Even when we had the conference at Buchanan, we were lodged in the same motel but the Bishop left his own personal room and came over to my room and asked me [saying]: "Fatorma, my son, I want to sleep with you; I am afraid of people." From there, we slept and we had the conference and we came back to Monrovia. The intimacy continued up to that of son and father relationship and up to present, even in this court, people [still] believe I am a Ghanaian and I am not a Ghanaian. Also [on the issue] that I was a full fledge member of the Bishop's church, [I say] that also is untrue. [In] the year 2007, we had our Bishop visiting us. He instituted a Bible college by correspondence where Bishop was our instructor and our Dean. The entire [course] materials were down loaded on my personal USB and from there, for every time we were in class, I was asked by the Bishop to down load the lesson.... I was a self employed man who owns his company and rendering construction services*

for UNMIL, UNDP and CCL and some other private citizens. I won the contract with UNDP to construct 15 fuel oil [storage] tanks to be used by the LNP in the 15 counties of the Republic of Liberia. I carried the contract sheet to the Bishop, may his soul rest in peace, and he said: "my son, you now see what I can tell you to serve God correctly; [you see how] God is blessing you; then definitely it means that all members of the World Mission Pastor are blessed." Having started the contract, I personally carried him what was required by scripture and we were mandated by our International Bishop that all of the Liberian Pastors have to pay title to the late Bishop and he will later on pay to the church in America. Upon payment, two days in between I was called by the UNMIL procurement section that I should start the supply of laterite in the amount of 760 loads and it required pre-financing. I decided to write an application to the ECOBANK of Liberia on Randall St. for a loan. After all the process [went] through, I was asked to open a checking account and the requirements were two letters of recommendation that which the Bishop, may his soul rest in peace, granted me one, then one Pastor A. Abu granted me another one, from the Doe Christian Fellowship in Logan town and an account was opened. At the same time, we were still going to school. Finally, the year 2007 was coming to an end and we were almost reaching to completion of our courses pending graduation. I won another contract again to supply the Pakistanis with 2,500 kilometer of crush rocks. I got another loan from Palm Insurance Inc. Because of the trouble chartering a vehicle to load the item, I decided to buy a pickup and a jeep. Upon the purchase, I carried the pick-up to the late Bishop and I said: "this is what God had blessed me with again." He prayed for it and after a week having entered the year 2008, a jeep was bought and carried to him. It was in this interim he asked me: "my son Fatorma, are you differentiating your property for which the Elders of the Church are always on my back that I am the principle, I am the Treasury and also a teacher of the school; from the day we obtained this property, a deed was signed by the owner of the property who was going to Ghana and the same said deed I gave to the Church Elders to probate but they said it could not be probated because my name was on the deed. If you say I am lying let me bring the copy before you because you are in this construction thing and you know more." The deed was forwarded to me by the Bishop, may his soul rest in peace. I looked at the deed, opened it and I saw it was a good deed that can be probated. He said: "can you probate it for me?" I said yes Bishop. I brought the deed to one James Baker at the research office at the Temple of Justice. I explained the same thing to him that the deed could not be probated. He said it can be probated. Upon that I immediately called Bishop and Bishop asked me what was going to be the fees? I said US\$50.00 can do everything. He said Fatorma, my son, do you think it can be possible? I gave these my people the deed and spent over US\$200.00 and the deed could not be probated. I told him that Bishop what is impossible to man is possible with God. You are the Bishop and I am a Pastor, the devil cannot defeat us in any way possible because we have overcome him. He said that's why I like you my son. The deed was probated and given to the Bishop. Our school section closed and that's how every one of us was at the time waiting for the Bishop to come and confer the degree on us in Liberia. March was the ending and I got serious with my job but all the other time, we will call Bishop and he also will call us whenever there was a need. On the 25th of May, I left in the morning dressed up to go and preach in my blessed church, filled with the powers of God. Having

done with the preaching, I came in the evening to my residence, sent for my food and ate. My son and other neighbors said Pastor Fatorma, we want for you to show us a show. It is not a proud statement that in the community that I live in, we are only three (3) fortunate neighbors blessed with video sets. But the other neighbors always request a little bit [of] fees; but for me as a servant of God being blessed, I always leave my door open for whosoever desire to watch movie. They brought the generator outside it was sparked by one of the tenants in the house then they started showing the movie. That was around the evening hours and because of the tiredness from the preaching I decided to enter in my bedroom to rest [while] they were showing the video. It was only late in the night going to 12 or (just) about that time, my son said:

"papa, the lightning struck from the down pour of rain and cut off the generator and the video." So I said I am tired; tell the same man that put the generator outside to help you carry it. I said let him carry it to his own room; this was between 1 to 2 and my phone rang and the call was directly from my own personal assistant pastor, Pastor Wleh Kalleh, from the Wasberman's Field Evangelical Ministry, located at the D. Tweh building, New Kru Town. I decided to encourage the call having seen his number because he likes to give excuses and that following week was the preparation of our anniversary that was slated for June 23rd, I thought he wanted to give some excuses but the phone kept ringing. Finally, I answered the call. "Pastor you didn't hear [the news]?" I said what? Somebody from Logan town from the late Bishop church has just called me and said armed robbers went and killed the Bishop. I shouted and I even threw my phone. Later, another call came again and said pastor "they killed him." That was all from Pastor Kalleh. Being a pastor and a member of the clergy of the Republic of Liberia, I decided to call some other pastors. I called pastors Collins, but being he was using another GSM (Cellcom) I tried getting to him but there was no way. I called one Pastor Yancy because he has been seen in association with the Bishop and all of us and he knows some other pastors around the area; he called back and told me that the Bishop was killed by armed robbers. In the interim, I received another call and it was directly from Pastor Daniel E. David, informing me again that armed robbers had killed the Bishop. He asked me if I was coming there. I said no because my distance from where I was to Logan town, Broad street at this hour of the night, security wise is not good for me. I said I will be there in the morning. In the morning, a pastor by the name of Pastor Isaac Otoo asked me if I was coming to the spot. I said no. I am not coming now; I have to get ready before I come, it was around 9am going to 10 am. As I got to the scene that very moment, the place was crowded. I never saw with my eyes the church from which the Bishop died. The place was demarcated by the police of Logan town that nobody could get access to the house, and when I got down, I saw Pastor Collins, Pastor Otoo, Pastor Yancy, and one Mark Mensah who broke away from the church. I was in tears. I wanted to get on the porch where the police were, they said no, no one can get on that porch until the homicide police come. So I retreated and joined the other pastors. We were there thinking as to what to do. About 11 am, the homicide squad arrived from the Central police station. They got down on the scene and all of the pastors and [sympathizers] wanted to go along with them. In the presence of Hon. Titus Barclay and the commissioner of Logan town, a police lady said they cannot

entertain or welcome all the crowd; they should appoint one of the pastors to be with them because they do not know the premises. That was how on that fateful day, Pastor Collins and Otoo asked me: "you are the secretary, go with the people." That's how I entered with the people. But we were not allowed to go closer to where the body was lying. Later almost after 12 noon when they were taking the body I got outside with the body. We saw the people from the Salvation church coming in, and as they landed on the scene, St. Moses car landed also. As they were coming in to where the body was then, the security asked: who are you people? They said, they were the members of the church and (UNMIL) informed them that we have a pastor already with us. I was on the phone. The UNMIL guy pointed to me and said there is the Pastor; that's how one of the elders by the name of Sam George slipped by [them] and pushed me and said you are not part of this thing; move from here. I wanted to get vexed to leave but the Spirit of God administered to me: "if you do go who will be with the people since the pastors have appointed you." That's how I got courage to get back to the scene. Around about this time, the body was already placed in the St. Moses car with the present pastor in charge in the front and there was another bus separately from the St. Moses car where the elders were trying to get in with many resistance as I made my way to get inside. We followed the body to the J.F.K. From there we carried the body to the morgue. The police came and said that the body was not supposed to be here; we should carry it to the E.R. (emergency room). By the time we got there, the same resistance that was posed by the elders of the church was the same; they never gave any chance to anybody to enter but only them. I decided to stay outside to wait along with some police officers. There I was waiting and I received a call from the UNMIL Procurement section that I have a letter from a company and I should immediately come and pick it up. I asked for permission and I decided to come. From that time, I never interacted with any of the Salvation church members until in the evening I got at Logan town junction. I met some other pastors who had early told me that the Salvation church elders slated a meeting for Thursday, later on; I was told by one of the pastors by the name of Pastor Chea who is now the Pastor in charge that he waited for me for him to give me some information and for me to give him some information. After we briefly interacted, I was going home then he asked me: "Man of God, the boy that was with Bishop before the armed robbers killed him, have you seen him?" I said no. I asked is that Lomeh? He said no; that is a different person. That is how we all walked to the Logan town depot just to meet a strange fellow that I have never seen in my life; he pointed to me saying this is the man that was with the Bishop. I said ah. This is not the Lomeh that we know that lives with the Bishop. That is how I left the scene. Thursday came, all the pastors that were [in] sympathy with the death of the Bishop and some other network-offpastors decided for all of us to convene a meeting. At that meeting [intended] to find a way or means to get to the root cause of the death of the Bishop. Upon arrival with all of the pastors, namely, Bishop Kotoe, of the World of Mission of Day, New Kru Town, Point Four, Pastor Abu of the Doe Christian Fellowship, Mother Kanlay of the Better New Kru Town, Point Four, Pastor Bowson of the Tranence of God Ministry Church, Caldwell road and many more other pastors along with the World Mission pastors. As we got to the meeting venue, we started hearing news spreading what we got to do. That was what I heard from Pastor Irene, who is now the pastor in charge. We are not going to have meeting; we are now going to pray, Pastor Irene said. I said, why no meeting,

why do you people want to postpone the meeting. But she insisted that the elders were not there; that she was going to communicate with them; if she gets to them, she will come back to us. Almost scores of pastors, well meaning pastors were waiting for the time of the approval for the meeting. Later, they went into some consultative meeting. After the meeting, Pastor Irene who is now the pastor in charge called pastor Otoo and they informed me that there will be no meeting but instead they wanted to pray. I was waiting for the time to relate it to the other pastors that they wanted to pray. So, definitely from that moment then my spirit man began to recall the instances where this Salvation church never welcome us World pastors for which Bishop was [ordained] as a Bishop and now upon his death they are trying to shun us from his death which according to scripture we were suppose to hold together and to see to it what killed the Bishop and how we can bury him. But [instead] of that, their desire was just to bury the Bishop and forget about the investigation. We waited for some time. Then we saw a taxi boarded by Elder Sam and few more elders from the Salvation church of God entering the church compound. We saw Elder Sam George and other elders plus a strange man that was introduced to me early in the police station that they were coming from the police headquarters. To my utmost surprise, after the elders of the church took seat, I discovered a lady sitting among [them] who normally used to come around Bishop but whom I never knew whether she was a church member of the Bishop but I used to see her come to Bishop. Before the meeting, she later met me and greeted me and said you have my sympathy. Then it rang another bell in my mind: "Who is this woman who sits among the elders who extended sympathy to me?" The meeting started after tussle and pulling. During the meeting, they were asking views from pastors. From the beginning when I got to [the] scene, I never spotted any Salvation church member only when the body was ready to be taken they appeared with St. Moses car. As I stood up for motion, Pastor Irene immediately cut me off and said you shut up and sit down and all the church people were grumbling in the meeting. So one of the Bishops who then became chairman of the meeting of the congregation said we are here to see how the Bishop was killed and how to look for the way forward for his burial. He asked them to give me a chance to speak. As I stood up and attempted to open my mouth, I did not see any Salvation church member; there were profane languages from the members that even excused some of the other members; Finally, broken pieces were mended by Pastor Kallen so that we can walk in harmony as to how the Bishop was killed and how to bury. They appointed four (4) of us from the World Mission to work along with the elders of Salvation church. Telephone numbers were exchanged for effective communication and we disbursed from the meeting. To my surprise, on Friday morning, I decided to call Elder George from the Salvation church of God. He answered me and asked what is the way forward for the day? He said now as I am talking to you, we are in World Mission talking to you. I said what you people are doing there? He said and I quote: "The CID them now called me they said they coming do more checking in the house." I said Elder Sam, why you did not inform any of the members of the World Mission members? He said he was at his working lace and they just called him. I said the same way they called you on telephone you suppose to call either one or two World Mission pastors since we have agreed to work together to be with you. And further more, you are not a pastor of World Mission. That's how the phone cut off. He never called back to ever enlighten me what was the outcome of the police further checking in the house. That

was on Friday, the same week Bishop died. We had our own insiders meeting, [we] the pastors of the World Mission to ask the Overseer Bishop along with the Liberian government in conjunction with the same pathology that came for the Angel Togba incident. This is how we concluded our insiders' meeting to do the said investigation as I stated above. We had another meeting chaired by Bishop Kallen at his house. When we got to the meeting, along with the Salvation church elders, World Mission Ministry pastors, we all agreed that the early burial requested for by the church should be laid to rest for now. That we should further investigate. Then some other suggestion came from the Salvation church member saying that money business was hard. I said we cannot bury Bishop now. We are going to recommend that other security agency be added to the police, like NBI, with international expertise to help us find out better what led to the death of the Bishop. I stated if it caused me anything to underwrite the [cost] I will pay it. We finally selected few other pastors. They came to the fact finding at the police headquarters headed by pastor Kallon. The following morning I received a telephone call from one Diremine who said they wanted to see me at the Monrovia Central Police headquarters. Upon arrival, I saw the Pastor in charge, Pastor Irene sitting in the office and this strange fellow to the other side. From that day I came to know him as Samuel Amofa. As I sat down, I asked who Direme? Another person I came to know to be George Quoi, who told me to sit down and I sat down politely hoping that they were going to tell me some good news with regard to the death of the Bishop. While waiting, one Nelson who later claimed to be an elder of the church along with Natifa, Sam George and others [were] having some secret meeting with the CID. After their secret meeting, poor innocent child I was sitting looking at them, from the 11:00a.m, I entered the building to 4:45 pm. Finally, after they had their last consultative meeting, they asked Pastor Irene to go home. They [also] took Samuel Amofa to where they carried him; I did not know [him]; that is the time I got to know his name as Samuel Amofa. After the departure of Nelson, [CID officer] Qua came in very angry just like lion looking for human being to eat and without the fear of God, having not been properly investigated, held me by my trousers and held me up saying, respect yourself, you are charged for MURDER. That is how I found myself placed behind iron bars, giving me mental torture and physical torture. Finally I want to say in this manner to our Honorable Judge and the well respected jurors and the prosecuting counsel and my defense counsel that how can a man like me have the power of Omnipresent that I should be at two places at the same time. The action was going on according to Defendant Amofa by 9 to 10 and I was in my house with my family and others watching video. Why should I kill the Bishop? The Bishop and I do not have anything in common to become an immediate beneficiary. He has his church that he was pastoring and I have mine that I am pastoring. He and I never had any misunderstanding but good relationship. The secretary title of the World Mission is nothing but sacrificial job unto God. Why should I kill the Bishop; to gain what? As God has blessed me, [I have accumulated] a total asset of my personal business including cash closed to a million dollars. I want to rest and in my resting, I want to say to God the Son and the Holy Ghost to bear me witness. I thank you all. In the last general meeting [on] a Monday of the subsequent week when the Bishop died, in the house of Bishop Kallon, Elder Sam George boasted of the keys of the Bishop and the bank book and some other documents that he never displayed to us; but he showed us the keys. But in



*the testimony of the defendant, those that killed the Bishop closed him up and carried the keys. So what ponders me is why will the killers of the Bishop lock the door and carry the keys; that is what I wanted to ask."*

From his testimony in chief, appellant has clearly averred alibi in support of his not guilty plea. In furtherance of its alibi averment, defense introduced Mr. Ignitius P. Brown as its fourth witness. He stated as follows:

*"That night when I came from out I met Fatorma and the other neighbors watching film and I sat in the midst of them and we began to watch the film. Later he brought a solo juice which he did offer us, until when we stay there until 12 pm precise. Later while others were sleeping and myself felt sleepy and he Fatorma told us to cut off the generator and I told his son Lamie to bring in the generator and later I shut the door and went to bed. THAT ALL / KNOW"*

Defense introduced three other witnesses who more or less repeated substantially the same story narrated by the principle witness, Appellant Fatorma and thereafter rested.

Subsequently, prosecution introduced five (5) rebuttal witnesses seeking to impeach defense testimonies on key questions. The case was thereafter submitted to the trial court for final argument. Assigned Judge Kaba charged the petit jurors who returned a majority verdict adverse to the appellant. To Judge Kaba's judgment confirming the guilty verdict, appellant excepting has placed before us a fifteen count bill of exceptions.

Counts 1, 4, 5, 7, 9 and 13, deemed pertinent to this appeal are quoted hereunder.

*"1. And also because Your Honor ignored the contradictions in the entire testimonies of the prosecution's witnesses from which a verdict of guilty was brought against the defendant and a motion for new trial was filed citing the contradictions and inconsistencies, but Your Honor committed a reversible error when you denied the motion of the defendant for new trial and sentenced him to life imprisonment.*

*5. Your Honor ignored the conflicting statements made by the principle witness, Samuel Amofa to the homicide squad during their preliminary investigation. On the cross, George Quoi, one of the investigators was asked by defense "Mr. Witness, it is my understanding that what you told the court and jury is what Amofa told you during your investigation? In reply to this question, he said "yes." The next question on the cross was, Mr. Witness, please say as an investigator in this case as to whether or not Amofa told you those that entered the Bishop's residence with masks on their faces, codefendant Brima Fartomah was present? In answer to this question, the witness said*

*"Samuel Amofa told us that he could not identify anybody because all of them were wearing mask, Your Honor ignored this doubt in the prosecution's witnesses testimonies when you said "the verdict of the panel jurors is not contrary to the weight of the evidence adduced by the prosecution therefore, the defendant is hereby guilty of murder. See Friday, March 6, sheet (2).*

*13. Defendant contends further and says that Your Honor committed reversible error when you ignored the statement of prosecution's witnesses George Quo and Ivan Page that during their investigation on the crime scene, it was difficult to identify the killers of the Bishop, therefore, the prime suspect Samuel Amofa who was with the Bishop that night when he was killed was placed under the custody of the church and after five days an alleged text message was discovered on Amofa's phone which according to Samuel Amofa came from defendant Brima, the church turned the phone over to the police that prompted the arrest of the defendant and he was charged with Murder. When the prosecution's witness was asked on the cross as to whether he knew the cell phone number of the defendant, he said "no", and Your Honor ignored this doubt and denied the defendant's motion for new trial."*

Appellant's contentions embodied in the counts quoted herein above can be summed up and presented in one salient question: *"whether the State established a prima facie case for this Court of final arbiter to sustain the judgment of conviction entered by the lower court?? Said differently, "was the verdict by the panel of jurors contrary to the weight of the evidence adduced during trial?"*

Counsel for appellant has contended that by returning a guilty a guilty verdict, the petit jury woefully disregarded compelling evidence contrary to the facts in the case and the laws controlling. Further contending, appellant has referred to what he termed as contradictory statements allegedly made by prosecution prime witness at the police station and subsequently in the company of fellow church members. Both in the brief and during argument before this Court, counsel for appellant has insisted that in the face of conflicting statements attributed to Witness Amofa, Government principle witness, his entire testimony should have been disregarded. In support of this position, counsel has relied on a principle in the case *Kpoto v. Kpoto*, reported in 34 LLR, 371 (1987).

In the *Kpoto* case, this Court expounding on the doctrine *"falsus in uno and falsus unombus"* (meaning false in one thing, false in everything) held the a witness' testimony may be considered unworthy of belief as to the rest of his evidence if it is shown that said witness has sworn falsely in one detail.

Countering however, State lawyers have maintained in further elucidation of their brief argued before us that the State firmly established a prima facie case against appellant.

Prosecution has insisted that under Liberian criminal jurisprudence, prosecution may prove that crime has been committed and by the accused either by direct or circumstantial evidence. In the instant case, the State contends that it carried this burden. According to the State, both positive and circumstantial evidence were introduced by the State which stood un-impeached. The trial having been regularly and fairly conducted in which evidence deposed excludes any hypothesis of reasonable doubt, it is prosecution's contention that this Court, the Supreme Court as the final arbiter in the land, is duty bound under the laws of the land to affirm the judgment of conviction rendered by the trial court. In support of this position, prosecution has cited the case, *Dahn versus Republic*, reported in 34 LLR 565 (1988), text at page 576 in support of its position. In the referenced case, this Court upholding a long standing principle hoary with time in this jurisdiction and also enunciated in 1036, in *Peehn versus Republic*, 5 LLR 192 (1936),

To the mind of this Court, critical review of the totality of the evidence does not lend adequate support to appellant's overriding contention that the judgment entered in the case on appeal was unsupported by the evidence.

Aside from the deposition made by State prime witness Samuel Amofa, all the other ten (10) prosecution witnesses testified as to the suspicious conduct of the appellant tending to link him appellant to the murder of the late Bishop Alfred Aquoa. In the face of appellant's stringent denial throughout his testimony of any involvement in the crime, Government witnesses testified to their personal knowledge of, and corroborated earlier testimony showing various interactions appellant had with Witness Amofa before and after the murder of the bishop.

We desire to keenly observe here that throughout his testimony, appellant was in total denial of any involvement. During his laboriously lengthy testimony, appellant infact vehemently denied of ever knowing Samuel Amofa. Appellant was adamant that never ever, even for once, interacted with Samuel Amofa before Sunday, May25, 2008, the date the bishop was gruesomely murdered up until he (appellant) was taken to the police station.

Appellant in answer to a question whether he had have any interaction with Amofa at any point in time, this is what he said: "*As I stated earlier, before man and God that I Rev. Brima J. Fatorma [say] again never at any point in time ever saw this creature of God called Amofa before the death of the Bishop.*"

In the face of appellant's stringent denial of any relationship with Samuel Amofa,

Prosecution introduced its first rebuttal witness, Francis Lumeh. The witness was quizzed whether he knew of any relationship or interactions between Appellant Fatorma and Samuel Amofa. He answered informing the court that appellant knew and have interacted with Samuel Amofa on various occasions. The witness explained that on one occasion, he was in the house with his father and his wife along with Rev. Fatorma; that Fatorma infact requested water to drink and that as his hands were dirty, he (the witness) asked Amofa to give water to the Reverend. On another occasion, he further explained in court, that he was sitting at the porch along with Amofa studying his notes when Rev. Fatorma came in and had discussion in the house with the Bishop. He said that thereafter, Rev. Fatorma came out on the porch, tapped Amofa's shoulder and who then followed him out. According to this witness, on that occasion, the two persons engaged in a discussion though he did not hear the substance of said discussion. On yet another time, while coming from school and disembarking from a taxi at the Logan Town cinema, he did see Rev. Fatorma and Amofa together talking keeping what clearly appeared to be a friendly conversation.

In our mind, the testimony offered in evidence by the rebuttal witness tended, in the minimum, to establish that appellant was concealing, perhaps unwittingly, any links with Samuel Amofa. The rebuttal witness demonstrated at least to the satisfaction of the panel of jurors that indeed there were several interactions between appellant and Samuel Amofa long before the murder of the Bishop. It is also important to note that the testimony of the rebuttal witness showing that appellant had relationship with Samuel Amofa demonstrated that appellant was untruthful to both the court and the trier jury.

Under this circumstance, the stringent denial made by appellant that he never ever knew and had have no interactions with Amofa prior to the death of the bishop crumbled, at least in the consideration of the panel jury. In other words, the doctrine "false in one thing, false in everything" ("*falsus in uno and falsus unombus*") cited by counsel with the request that this Court apply same to prosecution's prime witness, appeared to have been applied by the petit jurors to defense principle witness, Pastor Fatorma.

Earlier in his testimony in chief, Witness Amofa insisted that on the night of the murder, he recognized and spoke with the appellant who persuaded him to open the gate to allow appellant entry into the late bishop's residence. This is what the witness said in response to a defense question:

*"...I personally talked with Pastor Fatorma even before opening the door and after opening the door, I was still talking with him when 3 [three] masked men entered. So when they entered, Pastor Fatorma*

*was not seen again and that after few minutes, another masked man entered the place wearing the same short trousers Pastor Fatorma was wearing while I was talking with him; and entering the sitting room, Pastor Fatorma talked and I recognized his voice because I was talking with him. The 3 [three] masked men asked for the whereabouts of the Bishop; but the 4 th [fourth] masked man who is Pastor Fatorma entered and asked no question as somebody who knows the house."*

Samuel Amofa indeed insisted throughout the proceedings that he recognized the voice and did speak to the appellant before he opened the gate leading to the bishop's residence. Responding to a question in relation to this point during cross examination, Amofa said:

*"I said.....when Pastor Fatorma knocked and called to the door, I talked to him through the window and told him that the man he is coming to see is sleeping now. Pastor Fatorma told me to open the door to come in to show me something. So infact Pastor Fatorma did not insist that I must open the door for him to see the Bishop, but rather he wanted to show me something. By the time I opened the door to talk with him, he was not wearing any mask.....lf I had seen Pastor Fatorma in mask in the window, I was not going to open the door."*

As contended by defense, Samuel Amofa offered what appeared to be inconsistent statements when he was investigated by the police. It would seem however that the explanations he offered during trial, under oath, were satisfactory to the jurors.

This was Samuel Amofa's explanation for his apparent inconsistency. He said: *"They carried me to Logan Town Deport where in the morning I was asked to write my statement. I realized now the Bishop who is to help me is now dead and the only person that I know is Pastor Fatuma and he is the same person that did this thing, and if I should call his name now my dream of traveling will stop. I will wait for him to hear from him why he had to kill the man ...."*

The witness further said: *"When I went there [police station], they questioned me. I was still reluctant to give them the true story because the place we live no one can protect us in Liberia here. So I was in custody for two days without telling them the truth. I was very hungry in the jail. Nobody was coming to me, because I needed to talk; because I cannot bear the guilt. So after I had that trust of the police, I opened up and narrated the story to them "*

During the trial also, appellant earlier in his general testimony under oath told the court that he had no reason whatsoever nor did he stand to benefit in any manner from the Bishop's murder. He also denied ever being at logger-head with the bishop and that he was never suspended from the position of Secretary General of the World Mission as a consequence of a rift. Appellant was cleared in his challenge to prosecution to

establish any motive in the following words:

*"Why should I kill the Bishop? The Bishop and I do not have anything in common to become an immediate beneficiary. He has his church that he pastoring and I have mine that I am [also] pastoring. He and I never have any misunderstanding but good relationship. The secretary title of the World Mission it is nothing but sacrificial job unto God. Why should I kill the Bishop, to gain what? Why, as God has blessed me [with what I'm accumulating]. [I have] a total asset of my personal business including cash closed to a million dollars."*

Prosecution second rebuttal witness Isaac Ottoo was questioned on possible motive.

Appellant specifically denied ever being suspended from the position of Secretary General of World Mission Ministry. Admission of his suspension could probably provide a basis for malice and motive to murder. But witness Ottoo refuted appellant's denial in this respect. The witness told the court that Rev. Fatorma was suspended at least four (4) months before the murder of the Bishop and replaced by Pastor John O. King, Sr. Ottoo's testimony also remained unimpeached.

During the trial also, witnesses for the State testified with corroboration that a text message was sent from an unknown number to Samuel Amofa shortly after his arrest by the police. The text message issued threats against Samuel Amofa should he disclose any material information in respect of the murder to the investigators. The text message essentially reads: *"The Bishop was stubborn, that's the reason why he died and we believe that you are wiser than Bishop; that's the reason you are still alive. But keep quiet or else I will pursue you."* In passing, one may ask that from whom could such a text emanate given the circumstances of this murder. Clearly, the jury seemed to have been convinced in their verdict as to this question.

It must also be remembered that prosecution second witness Sam Quamie Nelson told the court that following deposition of the Bishop's body in the morgue he along with other church members went to the police station. We quote the relevant part of his testimony: *"When we got to Logan Town, we went to the police station where Sam Amofa was and when we got there, I was the only person that entered. When I entered, I met Fatorma and one other short guy with Sam Amofa. Brima Fatorma told Sam if the people free you I will come and sign for you and take you; and do not allow any church member to sign for you..."* As serious as this allegation was against Rev. Fatorma, the record shows no denial on the appellant part during his testimony in his own defense.

Defense also pleaded alibi contending that appellant could not have been at the

residence of the bishop while at the same time he was home in bed. In support of the plea, as earlier stated in this opinion, defense introduced a witness who told the court that he was with appellant at their residence and saw appellant retire to bed at about midnight on the said date. Testifying in chief, appellant in support of his alibi plead stated:

*"Finally I want to say in this manner to our Hon. Judge and the well respected jurors and the prosecuting counsel and my defense counsel that how can a man like me have the power of Omnipresent that I should be at two places at the same time. The action was going on according to the defendant Amofa by 9 to 10 and I was in my house with my family and others watching video."*

Alibi is an affirmative plead. It is controlled by the same principle of law governing affirmative averments. Speaking about the principle of alibi in *Ben v. Republic* reported in 31 LLR, 107 (1983) text at page 115, this Court said:

*"As used in criminal law, it (alibi) indicates that that line of proof by which a defendant undertakes to show that he did not commit and could not have committed the crime charged, because he was at the scene of the crime at the time of its commission...[It] also means that at the time of commission of the crime charged in the indictment defendant was at a different place so remote or distant or under such circumstances that he could not have committed the offense. It is a physical circumstance and derives its entire potency as a defense from the fact that it involves a physical impossibility of guilt of the accused."*

On the basis of the law quoted above, this Court affirms that alibi is clearly accepted in our jurisdiction as a strong defense in a criminal trial. On this score, law writers are in general agreement that when used in criminal law, *alibi* generally seeks to indicate that proof by which an accused person undertakes to show that because he or she was not at the scene of the crime at the time of its commission, having been at another place at the time, he or she could not have committed the crime. The rule however is in order for an accused to successfully rely on *alibi*, his plead must be well established and convincing especially to the minds of the jurors.

In other words, by an *alibi*, the accused desires to establish that he had been at a place so remote that his participation in the crime was a physical impossibility. While *alibi* plead ought to be accorded fair consideration in favor of the accused, one key observation made by law writers is that *alibi* is usually easily fabricated. The caution therefore is that alibi defense must be subject to searching scrutiny. AM JUR. 2d ALIBI, Sect. 184. (Criminal Law). Coming home to our own jurisprudence, the murder case *Ledlow et. al v. Republic* 2 LLR 569, 581 — 582 decided by this Court in 1925 is instructive

in analogy to the instant case.

As in argued in the case at bar, the appellant in the cited case also argued *alibi*.

Appellant Ledlow contended that he was at his farm on the Mechlin River. It was not disputed that appellant's farm where he claimed to be at the time was a distance of some 25 miles from the City of Buchanan where the crime was reportedly committed.

State witnesses however deposed that they saw Appellant Ledlow in Lower Buchanan on the same June 3rd afternoon, the day the crime of murder was committed. Emphasizing that jurors are the sole judges of the facts in such circumstances, the majority of this Court affirmed the lower court's judgment entered on the guilty verdict. lbd. 583.

The trial judge correctly examined and satisfactorily passed on the alibi question. Since we are in full agreement with his conclusion on this question, we quote verbatim his ruling in relevance as stated:

*"In the instant case, the alibi of the defendant is that on the day of the incident, he performed a long normal religious duty in going to church and administering to his members and thereafter returned home very tired. He told this court that two other members of his community charged a fee for permission to watch their video set, [but] he allowed others to freely enter to watch [his]. [That] on that fateful day, based upon the prayers of his children, he decided to order that [the] video set be turned on and one of the renters was asked to put the set on. But because he was tired and very exhausted, he went in his room and retired and that it was only around 12 to 12:30 when his son woke him and told him, "Daddy, a heavy lightening has struck and the generator and video shut down".*

*"According to the defendant, he told his son to ask the renter who put the generator on to shut the generator down and keep it in his room. Then... who was brought to corroborate this story, [one] Mr. Ignatius Brown. He told this court that indeed he resided in the same house as the defendant. That as a taxi driver, he normally returns home in the evening and on that fateful day, he came home around 8 to 8:30. He met the television on and therefore entered to also view the TV. According to him, he met the defendant also watching TV and he specifically remembered that the defendant was drinking solo juice. He said that he sat in there until [he] retired to bed. A problem has been created. Did the defendant actually just order the generator to be put on and retired to bed or did he put the TV on, sat with the others and watched the TV until it was time to shut it down? The corroborating witness who said that the defendant sat with them to the end made no mention on lightening striking the generator thereby shutting it down. This [apparent inconsistency] was for the Panel to examine and*



*decide."*

But as can be clearly seen in the case at bar, in the opinion of the jury, the evidence in support of appellant's alibi was unsatisfactory.

We must remark here that in our jurisdiction, the credibility attached to every piece of the evidence is with the jury; they may believe one witness or set of witnesses and disbelieve the other. It is the province of the jury to determine the guilt or innocence of the accused brought and tried before said jury in a criminal case. It was equally their province to decide what credit to give each species of evidence. As held in *Ledlow et. al v. Republic* 2 LLR 569, 581 — 582 (1925), unless it is manifestly and palpably against the weight of evidence, courts of justice ought not to set aside a jury verdict.

To the mind of this Court, the overriding contention made appellant that the State did not prove its case, miserably failed to persuade us. On the question of proving a case beyond reasonable doubt, this Court, in *YANCY, et. al v. Republic*, held that [the] *"quantity of proof depends somewhat on the particular circumstances of each case."* 27 LLR 365, text at page 391 (1978). Also, in *Gardiner v. Republic*, Mr. Justice Russell speaking for this Court held: *"Whenever the logical deduction from the facts placed on the record leads conclusively to the logical deduction that the crime was committed by the accused, it is sufficient."* 8 LLR 406, 412 (1944).

As this Court has consistently held in the consideration of the evidence, it is the duty of the jury to place all of the evidence both by the prosecution as well as the defense on its scale of consideration. *Jones versus Republic*, 13 LLR 623, 643 (1960). In the case under review, it is our abiding conviction that the legal requirements for sustaining a conviction were satisfactorily met in the case at bar.

WHEREFORE AND IN VIEW of all the attendant circumstances, the facts and controlling laws herein cited, it is opinion that the judgment of conviction entered against appellant J. Brima Fartoma for the heinous crime of murder be, and same is hereby confirmed.

THE CLERK OF THIS COURT is ordered to send a mandate to the judge presiding below to give effect to this judgment. AND IT IS SO ORDERED.

*Francis Garlawolo and Demptster Brown of the Center for Human Rights Defense Legal Services, Incorporated, appeared for appellant. Wilkins Wright, Yarmie Q. Gbeisay, Sr. and Samuel Jacobs of the Ministry of Justice, appeared for appellee.*

