

**H. LAFAYETTE HARMON** and **OOST AFRIKAANSCH COMPAGNIE**, a Dutch firm transacting mercantile business in Monrovia by its Agent, J. D. KOPPELAAR, Petitioners-Appellants, v. **WILHELMINA A. BRYANT-JONES**, by her Husband **EDWIN A. MARCUS JONES**, **ELIZABETH H. BRYANT-DIGGS**, by her Husband, **J. ALFRED DIGGS**, and **JAMES J. BRYANT**, Heirs of the Late WILLIAM A. BRYANT, Respondents-Appellees.

MOTIONS FOR CONTINUANCE.

Argued May 11, 1950. Decided June 8, 1950.

Voluntary absence of counsel is not ground for continuance of a cause.

On motions in this Court for continuance, motions *denied*.

*R. F. D. Smallwood* for appellants. *Momolu S. Cooper* for appellees.

MR. JUSTICE BARCLAY delivered the opinion of the Court.

On April 28, 1950 the following motion was filed with the clerk of this Court by appellee Harmon: "MOTION FOR CONTINUANCE OF CAUSE.

"And now comes the defendants and appellants in the above entitled cause and most respectfully moves this Honourable Court to continue the hearing of this case until the October Term, A.D. 1950, of the aforesaid Court, and for cause of said motion showeth the following, to wit:

"1. Because H. Lafayette Harmon, the principal defendant and appellant is compelled to leave the Capital for Grand Bassa County, and will be away until toward the end of May, and that aside from being the principal defendant and appellant, he is the leading lawyer in the case and more acquainted with the facts and law controlling the issues; to go into the trial in his absence would work serious injustice to his interest.

"2. And also because, this Honourable Court being the appellate court of dernier ressort from which no appeal shall lie, parties should be given every opportunity for a fair and impartial hearing, a policy which this court has always tried to maintain. For which legal and equitable reasons, appellants pray the continuation of this case until the October Term, A.D. 1950.

"Respectfully submitted,

H. Lafayette Harmon, a Solicitor and Counsellor at Law of the City of Monrovia, and the Oost Afrikaansche Cornpagnie, a Dutch firm doing mercantile business in Liberia, by and through their agent, J. D. Koppelaar, appellants.

by H. L. HARMON,

*Solicitor and Counsellor-at-law.*"

In resistance to this motion appellees' counsel filed the following:

"Appellees in the above entitled cause most respectfully pray the court to deny appellants' Motion for continuance of this cause because of the following reasons, to wit :—

"1. Because said motion is filed for the sole purpose of further . . . delaying the determination of this cause to the great prejudice and further inconvenience and annoyance of the appellees herein, in that H. Laf. Harmon's calculated plan to 'leave the Capital for Grand Bassa County' until the end of May, is neither a legal nor an equitable ground for the further delay and continuance of this cause. Wherefore appellees pray that count 1 of the Motion be overruled. And this appellees are ready to prove.

"2. And also because count 2 of the Motion is void of legal and equitable merit, since no valid grounds are shown therein to warrant this Honourable Court in further postponing the determination of this cause which has been pending in this court for quite a long time, always continued at the instance of appellant Harmon. Wherefore appellees pray that count 2 of the Motion be overruled. And this the said appellees are ready to prove.

"3. And also because as to said count 2 of the Motion appellees further say that the assigning of this cause for hearing at this term after the lapse of such a long time due to the alleged illness and upon the expressed requests of appellant Harmon, who is now well, is patently indicative of this Honourable Court's resolve to afford all parties concerned every opportunity for a fair and impartial hearing, a policy which this court has always tried to maintain. Wherefore appellees pray that count 2 of the Motion be overruled. "Wherefore appellees respectfully pray that no valid or equitable grounds having been shown by and in said Motion, this Honourable Court will deny same and proceed with the hearing of this cause, and that your Honours will grant unto appellees such other and further relief in the premises as unto the court seemeth just, legal and equitable.

"Respectfully submitted,  
Wilhelmina A. Bryant-Jones et al.  
By and thru their counsel  
MOMOLU COOPER,  
*Counsellor-at-law.*"

To our surprise before the Court could take up and dispose of the motion and its resistance, although Counsellor Harmon had immediately upon the filing of the motion left for Grand Bassa, his associate counsel, R. F. D. Smallwood, filed another motion for continuance without withdrawing the first motion. The counts of the second motion read as follows :

"1. Because H. Lafayette Harmon is the principal appellant and leading lawyer in the above entitled cause, and being a candidate for election to the Liberian Senate hailing from Grand Bassa County, and being called to this post by the citizens of said county, was compelled to leave the Capital for the County of Grand Bassa for the election, which took place on the first Tuesday of May, A.D. 1950.

"2. And also because that after said election the said H. Lafayette Harmon, principal-appellant and leading lawyer as aforesaid is compelled to remain in the County of Grand Bassa to await the arrival of His Excellency the President of Liberia to said County which is scheduled for the 12th of May A.D. 1950, he being Senator elect and one of the leading citizens of said County.

"3. And also because to go into trial of said cause in the absence of said H. Lafayette Harmon as set out in counts 1 and 2 supra, would work prejudicial to his interest; because he is . . . acquainted with the facts in said case more than any other person assisting appellants which appellants are appealing to the sound discretion of the Court, being a Court of *dernier ressort* to grant said application.

"4. And also because R. F. D. Smallwood, Counsellor at Law, who also signed said brief is not the leading lawyer in said case nor did he conduct said case in the Court below and is expressly unwilling to go into the case in the absence of appellant H. Lafayette Harmon, who is also the leading lawyer in the case and beseech this Court not to compel him to go into the case in the absence of H. Lafayette Harmon, to do so would work prejudicial to his interest because of the relationship he sustained with said case.

"Respectfully submitted,

H. Lafayette Harmon, a Solicitor and Counsellor at Law, Monrovia, Liberia, and the Oost Afrikaansche Compagnie a Dutch firm doing mercantile business in Liberia by and thru their agent, J. D. Koppelaar, Appellants for H. Lafayette Harmon, Solicitor and Counsellor at Law

R. F. D. SMALLWOOD,

*Counsellor-at-Law.*

"Dated this 4th day of May, A. D. 1950."

After considering the motions, the resistance, and the circumstances surrounding the case, we are of the opinion that the grounds set out in the motions are not legal grounds upon which to grant a motion for continuance. The motions are therefore denied. The Court, nevertheless, on its own motion, having decided to adjourn the term, will not take up the case, but now gives notice that at its October term, 1950, this case will be given precedence over other cases ; and it is hereby so ordered.

*Motions denied.*