In re D. C. CARANDA, ESQUIRE, Counsellor-at-Law, Respondent.

CONTEMPT PROCEEDINGS.

Argued February 21, April 3, 1944. Decided May 4, 1944.

1. It is contemptuous for a counsellor of this Court or for any person to snake opprobious imputations to the Court.

2. Want of intention is not an excuse sufficient to purge a party of contempt.

In contempt proceedings before the Supreme Court, respondent adjudged *guilty of contempt.*

D. C. Caranda for himself. W. O. *Davies-Bright* as *amicus curiae.*

MR. JUSTICE SHANNON delivered the opinion of the Court.

Before the last November term of this Court there was an appeal pending in an action of divorce for cruelty in which Caroline Lartey was appellant and Solomon D. Lartey was appellee, and, according to the records of the Court, a motion to dismiss the appeal was duly filed by counsel for appellee. On December 9, 1943 and during the said term of Court, a bulletin was issued by the chief clerk of Court and "by orders" said cause was assigned with others for hearing on December 13 following and, on December 13, as the minutes of the Court clearly show, the case was taken up and heard on the motion thus filed and submitted for decision on February 4, 1944.

The attention of Counsellor Caranda, respondent in these proceedings, appears to have been called to the fact of the assignment of the case for decision and he well knew that he had to all intents and purposes both indifferently and carelessly handled the interest of his client, the appellant in the divorce case who is also his sister, in that he had been a regular attendant upon the sessions of the Court since the opening of the then November term of Court, being engaged in the notable sedition case which lasted in hearing from November to January following, a fact which supposes either his actual or constructive knowledge of the assignment of his sister and client's case. Because of said knowledge he sought to cover his wanton neglect of said interest by filing in the office of the clerk of this Court, on the first day of February, 1944, three days before the time set for the decision, a document entitled "Motion for rehearing

of Cause, in re Motion to Dismiss Appeal" although he, as a counsellor of this Court at the time knew, or should know, that such motions are only filed after the handing down of an opinion and the rendition of judgment and then only by the losing party and such motion will be entertained by the Court only upon the expressed desire and consent of one of the Justices concurring in the opinion and judgment. Rules of Sup. Ct., IX, z L.L.R. 666. To have taken such a position and to have taken it in such a manner leaves the impression that Counsellor Caranda was conceding dereliction on his part in the handling of his sister and client's case and interest. It is needless to say that because the said motion for reargument was filed prematurely and in anticipation of an adverse ruling, his said motion for reargument was not considered. According to schedule, decisions were given on the fourth day of February as per bulletin, and the motion to dismiss the said appeal was granted in an opinion of the Court delivered by Mr. Justice Barclay. *Lartey v. Lartey,* 8 L.L.R. 194 (1944).

On February 8, four days after the delivery of said opinion, Counsellor Caranda again filed another document entitled "Appellant's Brief to Appellee's Motion to Dismiss Appeal and Motion for Re-hearing for Cause in re Motion to Dismiss Appeal," wherein statements made in counts three and six thereof were considered insinuations about this Court. Therefore, according to the exact wording of the order of Court herein below quoted, the chief clerk of the Court was directed to issue a notice for the appearance of said Counsellor Caranda on Monday, February 21, 1944 to show cause why he should not be attached for contempt of Court.

"To J. D. LAWRENCE, ESQUIRE,
CHIEF CLERK, SUPREME COURT OF LIBERIA,
MONROVIA.

"SIR :—
"Let the Clerk of this Court issue a Notice addressed to Major John C. A. Gibson, Jr., the Marshal of the Supreme Court of Liberia, commanding him to summon D. C. Caranda, Esquire, Counsellor-at-law, to appear before this Court, on Monday, February 21st 1944, to show cause why he should not be attached for Contempt of Court, because of the imputations on this Court contained in the counts 3 and 6 of the Motion he, on the 8th day February A. D. 1944, filed for a Re-hearing of the case;

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which apparently offensive paragraphs read as follow :

`Section 3. Appellant's counsel, because of engagement with the court in the Sedition case Massaquoi and others versus the Republic of Liberia, as from the 23rd November A. D. 1943 to loth January A. D. 1944, inclusive, the Court in *banco,* engaged in no other cause whatsoever, in and during the interim.

`Section 6. The bulletining of the case by the Court among the causes on which Decisions and Opinions . . . on February 4th A. D. 1944, to the effect that Counsellor Dougba Carmo Caranda, appeared for appellant in the relevant cause-Motion of Court, these in the Decision or Opinion of the Court thus handed down by Mr. Justice Barclay prove a paradox. For in the light of reason, and the truth of the fact herein set out, to wit:— that following the service upon appellant of the Motion to Dismiss, no notice of assignment of cause by the Court was served on the appellant, or her counsel, nor was the said cause bulletined for hearing as by practice of Court the procedure obtains, it can be clearly seen, without any prejudice, that appellant has had no day whatever in Court in the Motion cause, as by Justice she is legally entitled.'

and

"Let the said Notice contain a clause commanding the Marshal to serve the same by reading to him the said respondent, the original Notice and leaving a copy with him; and

"Let the said Clerk write Counsellor W. O. Davies-Bright and Counsellor A. B. Ricks to serve as *amici curiae;* and

"Let the said Notice order said respondent to file his Returns to said Notice on or before February 21st 1944, and on which date said respondent will also make his appearance in person before this Court.

"Done by special orders of the Court in *banco.*
"For the Court, [L.S.] L. A. GRIMES,
Chief Justice, Supreme Court of Liberia."

Accordingly, the notice was issued, served, and returned and the respondent, Counsellor Caranda, appeared and filed his returns. Respondent's returns did not assume any correct attitude or position but instead were characterized by evasiveness and indecision, and in addition were tainted by further attempts at insinuations about the Court. Upon this order and notice with the returns thereto, hearing was commenced during the said November term but, because of the want of time to

conclude it, same was suspended and continued to this present term. When the matter was resumed, the respondent changed his attitude and position as appears by the following record that he himself made in the minutes of April 3, 1944:

"AT this stage of the proceedings, in good faith, and for good and sufficient reason, by special leave of court, as respondent, I respectfully here enter formal withdrawal of the Motion for Re-hearing of the Motion to Dismiss in the case ;

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and so along with it the Brief filed in connection therewith.

"The special submission and prayer are intended to further the apology already made this Honourable Court in advance, in the sixth (6th) count of my Returns in which I foreshadowed the Court's ability to convince me by records of the incorrectness of the imputations made against it in the premises; and which the court succeeded in so doing. I again apologize."

Because of this change of attitude and position by the respondent, there is also a change of attitude on the part of this Court to the extent of tempering the minds of its individual members who had each of them been somewhat concerned over the opprobriousness of the imputations made by the said respondent about the Court.

In the initial stage of these proceedings, the attitude of the respondent seemed to indicate, notwithstanding his challenge of the truthfulness and correctness of the position taken by the Court to the effect that the divorce case had been assigned and bulletined and subsequently called for hearing and heard, as is shown by counts three and six of his "Appellant's Brief to Appellee's Motion to Dismiss Appeal and Motion for Re-hearing of Cause in re Motion to Dismiss Appeal," that his said attitude and position taken were not an intention on his part to be contemptuous of the Court and therefore he felt that he should be purged of the contempt.

On this score for future guidance of persons who have to come before courts it is necessary to emphasize that want of intention is no excuse to purge a party of contempt.

"Disclaimer of intentional disrespect or design to embarrass the due administration of justice is no excuse, especially where the facts constituting the contempt are admitted, or where a contempt is clearly apparent from the circumstances

surrounding the commission of the act. The old rule, however, was that where one charged with contempt denied under oath any wrongful intent, the contempt was purged, and in practice now, where it is apparent that no disrespect was intended, a disavowal of intention to commit a contempt will be considered in extenuation of, or sometimes even as purging, the contempt." 13 Corpus Juris *Contempt* ∫ 61, at 45 (1917) ; 9 Cyc of Law & Proc. *Contempt 25-26* (1903).

This Court has been noticing with deep and grave disfavor that some practicing lawyers are nowadays handling their client's cases and interest with a certain amount of indifference and carelessness, a practice that must inevitably reflect unduly on the profession of our choice and bring it into disrepute if not checked. In face of this fact, the former attitude and position taken by the 'respondent to saddle the Court with responsibility for the miscarriage of his sister and client's case which was obviously due, as has been shown, to his sheer indifference, carelessness, and neglect, was, to say the least, reprehensible, and necessarily had to be gravely frowned upon.

The Court is therefore of the opinion that Counsellor Caranda, respondent in these proceedings, is guilty of contempt of court and, since he has altered his attitude and position to that of penitence with a prayer for clemency and mercy of this Court which change of attitude has had a certain amount of influence in his favor, the Court hereby reprimands him for this act and further fines him the sum of fifteen dollars to be paid within ten days from the date of judgment, failing which respondent is to be imprisoned for a period of thirty days; and it is hereby so ordered.
Guilty of contempt.