

**EMMANUEL O. WHITE**, Appellant, *v.* **REPUBLIC OF LIBERIA**, Appellee.

APPEAL FROM THE CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT,  
CRIMINAL ASSIZES, MONTSERRADO COUNTY.

Heard: December 4, 1979. Decided: December 21, 1979.

1. Medical reports are necessary to determine the cause and circumstances of death. However, by the defendant's own admission, the prosecution's obligation to establish the cause and circumstances of death can be rendered unnecessary.
2. Voluntary admission by a party in a criminal case is evidence against such party.
3. Accident is not a defence in a murder case, where there is evidence prior to the death of the victim which would lead the reasonable mind to conclude pre-meditation, malice and intent to kill.
4. The defense of accident is not available in a murder case, where subsequent to the alleged accident, the defendant seeks no medical or other help for the victim but conduct himself in a manner evidencing callous disregard for human life.

In a trial in the Circuit Court for the First Judicial Circuit, Criminal Assizes, Montserrado County, for the murder of his wife, appellant claimed that his wife died as a consequence of an accident which occurred while they (appellant and his wife) were fighting. The Supreme Court rejected this defense and affirmed the judgment of the lower court because there was evidence in the records of malice and intent by appellant to commit the crime, the evidence being that the appellant believed that his wife was unfaithful. There Court also concluded that was evidence of a callous disregard by the appellant for human life because the appellant had hidden his wife's unconscious body in the bushes for five days without asking for help and had instead given false excuses about her whereabouts. Also as to the claim that there was no medical report of cause of death, the Supreme Court held that while a medical report of cause of death is essential in murder cases, this requirement is rendered unnecessary where the appellant has voluntarily confessed and admitted to the manner and cause of death before and at the trial. On the basis of the foregoing, the Supreme Court affirmed the judgment of the trial court.

*M. Fabnulleh Jones* appeared for appellant. *The Solicitor General of Liberia* appeared for appellee.

MR. CHIEF JUSTICE PIERRE delivered the opinion of the Court.

In murder cases this Court has always sought to scrutinize carefully all of the evidence—what is relevant and sometimes even what is not relevant we feel that where human life is involved we should cover all of the grounds in our review of the case. Particularly we feel so in this case, as will be seen later in the history of events leading up to arrest and trial.

According to the story told in the appellee's brief, on the 3<sup>rd</sup> of December, 1973, the Appellant Emmanuel O. White and his wife, Jannie Davies-White had a misunderstanding between them, which resulted in a fight. During this fight, and whilst he was in the act of beating, pushing, knocking, slapping and otherwise brutalizing his wife, he struck her a blow which felled her to the floor in their bedroom where the fight took place. The indictment states that he also used a leather belt in beating her. Having been rendered unconscious from the beating and brutal treatment, he took her unconscious body out of the room, but instead of calling in medical care, he took his wife in his arms and carried her out of the house and concealed her alongside a fence near an old outdoor toilet under some shrubs or bushes. It is not known whether she was dead when he put her there, or that she died of her wounds and exposure. Five days after this had happened he reported himself to the police, and informed them where the body could be found; they discovered the body of his wife where he had hidden her by the fence and under the bushes. The body was in an advanced state of decomposition by that time. This made an autopsy impossible. The appellant was arrested, indicted and tried for murder the indictment claiming malice, premeditation and deliberation in the conduct of the accused which resulted in decedent's death.

The appellant was tried as aforesaid and the jury returned a verdict of guilty. Motions for new trial and in arrest of judgment were filed, heard and denied whereupon judgment was rendered against the appellant in keeping with the verdict. From this judgment he has appealed to the Supreme Court; hence the case before us.

According to the testimony of prosecution witnesses when appellant was taken into custody he told the police that for some time he had suspected his wife of being unfaithful to him, and of carrying on an affair with one Francis Harrison, an employee in the company where he was working as an accountant. This witness, a police officer called F. Trocom Galary also told of letters the appellant had written to two friends, James Majohn and James

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Karkeh before his arrest informing them that should they hear anything about him, they should not throw him away, but should take care of his children because he was no more in the world. He wrote resigning his position at the company. The letters referred to written to his two friends were dated on the 5th. of December, two days after he had hidden his wife's body in the bush. Another prosecution witness, Lieutenant James D. Sanneyeh testified that in the morning of the 8th of December, five days after the appellant's fight with his wife, the accused had written him a letter and sent it by his daughter Juma; relevant portion of the letter reads:

". . . The story is long but sorrowful, and you will go to Valley Camp, look around the fence in the bush you will see my wife she died one night while we were fighting. I know your feeling toward me will change, but if so you are making mistake, consult me before you conclude.

Yours,

E. O White"

After receiving the letter the witness, Police Lieutenant Sanneyeh took security officers with him, went to the place mention in the letter and found the woman's body in a state of decomposition. Later that day he received a message ordering him to report to Monrovia to identify a man who had reported a homicide. He came down and went to C.I.D. Headquarters, where he identified the accused, Emmanuel O. White.

Prosecution witness Majohn, mentioned earlier as a friend of the accused, had received a note at the hand of the daughter of the accused and in that note White had written:

"Dear Mac,

Please don't throw me away, I am not a wicked man, what happened is just an accident, I believe it can happen to any man . . ."

The last prosecution witness was Juma White daughter of the accused. For the benefit of this opinion we will quote her testimony as she gave it on the witness stand.

"We were in the house, it was on a Monday when Pa came from work. When he came he called Ciata and started asking where her Ma was. Ciata said to him that she had gone to Mr. Harrison's home. When he asked Ciata where her Ma was first, she refused to talk and then he started beating her, then she said to Mr. Harrison's house." Then he sent to call our Ma and in the presence of our Ma, he asked Ciata: 'where did you say your Ma was?' and she said 'she was to Mr. Harrison's house.' After they started making pa-laver I went to tell them not to fight. My father threatened me that I should move from in front of the door, and if I did not he would kick me outside. Then I took

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the other children, my brother and sister to Mr. James Majohn's place and remained there until they got through fighting, and we went home. We went home and he told us to go to bed and he said that if Jannie (the decedent) knocked to the door we must not open it. The next morning he told me to wash the floor and I told my other sister to please wash the floor for me because I was cooking. He said to me that he was going to get someone to see and I asked for Ma he said that Ma had gone to Gbarnga. During that time he started telling me that he was in trouble, so I did not ask him what kind of trouble. He said he was going to Monrovia, and if I hear anything about him I should take care of Ciata, and take care of myself."

This is the evidence of the prosecution upon which they rested the case for the State.

The accused testified for himself, and here is what he said:

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"I want to say to this court and jury that I did not kill this woman with any intention, and even as I stand here God can see my heart. One day I came from work, me and the woman started making palaver, and during the course of our fight she picked up the electric fan and I took the electric fan from her. She was standing right at the place where the electric fan was sitting, so I pushed her so that I could put the electric fan down. During this time she stumbled and fell over the bucket, and when I picked her up she just jerked in my hands and she became weak, and then I took her up from the ground and she was not breathing again. I got excited, I took the woman from the house and I carried her to the place where she was found. But to say that this woman (decedent) did something to me to cause me to kill her. . . no."

It is to be observed that the story told by the accused on the witness stand, is not in any way a denial of what the prosecution established he did not deny killing his wife, but said that it was an accident. If an accident as he had said, we wonder why the concealment of the body outdoors in the bush? Why wasn't the doctor called, or the police, or some friend or neighbor? We also wonder how he could have gone back to his work the next day and for several days, with such a thing on his conscience - his wife's body hidden in the bush where he had put it after beating her? Why did he try to deceive the children by telling them that their mother had gone to Gbarnga when he knew she was lying in the bush where he had placed her unconscious body after the fight during the night of the 3<sup>rd</sup> of December? Did he order the children not to open the door to let their mother in, should she knock, the night of the fight.

It is our opinion that these questions are a few of many more which arise from the circumstances presented in this case. There seemed to be all of the requirements to constitute a deliberate act of murder: motive, concealment, malice, and a showing of inhuman and callous disregard for human life, by his carrying and hiding of his wife's unconscious body in the bush, instead of seeking some kind of human assistance. Had he done this, we might have been disposed to believe his story of an accident.

When this case was called for review before us counsel for the appellant made the following record in the minutes of the Court:

- After thoroughly reading the records, it is my considered legal opinion that there is no reversible error committed during the trial of this case;
2. That from the evidence adduced at the trial of this case, by the defendant himself at sheet four, 11th day's sitting, August 27, 1979, which we quote, to wit 'I want to say to this court and jury that I did not kill this woman with any intention and as I stand here God sees my heart';
  3. The evidence adduced by the prosecution and defense showed that defendant had been

having quarrels with his wife for her unfaithfulness and infidelity to the extent that he had written the gentleman whom he accused threatening him, and also informed the industrial relations officer of his wife's infidelity and unfaithfulness, which forced him to resign on his own volition.

4. The fact that he admitted that he took the decedent at night and dumped her in the bush where she remained for five days before she was found, and the fact that he wrote letters to his relatives and friends that he had gotten into trouble and that they should pray for him, were admitted at the trial in evidence. Counsellor Jones says that in his legal opinion he does not see any way where he could conscientiously and effectively defend the appellant and therefore submits the case for Your Honours' determination in keeping with the evidence and the law controlling. And respectfully submits.”

There are two important issues raised in the Appellee's brief which we feel should be traversed, these are: 1) the absence of a coroner's report, and 2) the absence of a medical report.

In two cases determined by the Supreme Court recently, these issues were clearly passed upon. The cases are: *Zoe Banjoe v. Republic*, 26 LLR 255 (1977) and *Yancy et al. v. Republic*, 27 LLR 368 (1978). In both cases, this Court held that medical reports are necessary to determine the cause and circumstances of death. In this case, by the appellant's own admission, the prosecution is obligated to establish the cause and circumstances of death is rendered unnecessary.

In the case *Dennis v. Republic* and in a number of other cases since 1928 this Court has said that voluntary admission by a party in a criminal case is evidence against such party.

In view of the circumstances, we have no alternative but to affirm the judgment of the trial court. The Clerk of this Court is instructed to send a mandate to the trial court directing the judge presiding therein to resume jurisdiction over this case and to enforce its judgment.

*Judgment affirmed.*