

**In re S. DAVID COLEMAN** and **NETE SIE BROWNELL**, Counsellors at Law,  
**J. DANIEL BEYSOLOW**, Circuit Judge, **ISABELLA KARNGA**, and **OLIVIA  
KARNGA**, Respondents.

CONTEMPT PROCEEDINGS.

Argued March 24, April 15, 1953. Decided May 29, 1953.

Where the execution of a mandate of the Supreme Court to a lower court is impeded by the institution of injunction proceedings to prevent the execution of the mandate, the parties instituting the injunction proceedings are guilty of contempt.

On order of Mr. Justice Barclay in Chambers to show cause before the Supreme Court why respondents should not be held in contempt, *guilty of contempt*.

*Nete Sie Brownell* and *S. David Coleman*, *pro se* and for the other respondents. *Edwin A. Morgan* and *Richard A. Henries*, at the request of the Court, *amici curiae*.

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

Because of certain actions of respondents with reference to the execution of a mandate from this Court to the Circuit Court of the Sixth Judicial Circuit, Montserrat County, Mr. Justice Barclay, presiding in chambers, issued a summons commanding said respondents to appear before this Court *en banc* to show cause why they should not be held in contempt.

This Court declared in *In re Moore*, 2 L.L.R. 97, 101 (1913).

"There is no doubt as to the right of a justice in chambers to protect the orders of the court and preserve the administration of justice from any who would of every imaginable nature. From some quarters came commendation and complimentary sentiments in favor of this Court's position, while from other quarters came invectives and castigation. In some instances the intervention of the two coordinate branches of our government was invoked. It is gratifying that these coordinate branches of government acted in a manner consistent with our Constitution. This Court, like Gibraltar, maintained its position, and, like the North Star, its permanence; for it fully realized that the tumult which resulted from the performance of its plain and honest duty was "but a flapping of the sail, and not a rent made by the gale."

As man is the apex of God's creation, fashioned in the image and likeness of his Creator, so is he endowed with certain superior faculties ; and he possesses the power of discernment which enables him to discriminate between right and wrong, and to enjoy the privilege of selecting right and abandoning wrong if he so elects.

In harmony, no doubt, with the foregoing theory, petitioners Brownell and Coleman, discovering their error, and realizing that the Supreme Court of Liberia was and is the only forum before which they could succeed in obtaining the relief they desired and earnestly sought, turned their faces from all other directions and faced the light of justice. With a contrite attitude, petitioners appealed to this Court, praying that the justice which had been meted out to them be now tempered with mercy.

The petition of Counsellor Brownell reads as follows :

"May it please your Honors : the undersigned Nete Sie Brownell, Counsellor at Law, most respectfully shows unto your Honors as follows :

"1. That your humble petitioner is a citizen of good moral character.

"2. That for seven years he studied law under the late Dr. Louis Arthur Grimes of illustrious memory who later became one of the Chief Justices of this Republic.

"3. That, after this long period of careful preparation for the profession of law, petitioner was duly admitted to the bar of Montserrado County on August 12, 1920, and later to the bar of the Supreme Court of Liberia in January, 1926, thus making petitioner a legal practitioner and member of the bar of Liberia for a period of thirty-three years.

"4. That, most regrettably for him, during the March, 1953, term of the Supreme Court of Liberia, he was adjudged guilty of civil contempt and sentenced to suspension from the practice of law for a period of three calendar years, effective as of May 29, 1953.

"5. That your humble petitioner is truly and earnestly sorry and penitent for his actions in the proceedings which compelled the Supreme Court to take such disciplinary measures against him by suspending him from the practice of law; and petitioner solemnly promises never to be guilty of the actions for which he was held in contempt, but will, hereafter, to the best of his ability, demean himself deferentially and respectfully toward the bench.

"6. That your humble petitioner is faithfully and loyally serving the sentence passed upon him by the Supreme Court, and has paid the costs assessed against him; but that, because of the extreme hardship which said sentence of suspension from the practice of law is working on your humble petitioner, and taking into consideration that he has already suffered nearly five months of deprivation of a potential and actual source of income and livelihood, he begs most respectfully to petition the Supreme Court to be good and gracious and merciful, to reconsider its decision, sentence and judgment of suspension from the practice of law, and to grant him pardon, forgiveness and a remission of the remaining period of suspension from the practice of law.

"7. Wherefore your humble petitioner most respectfully prays that your Honors will grant petitioner a remission of sentence and restoration to the status of a practicing lawyer at the bar, and such other and further relief as unto your Honors shall be deemed meet and just, and to good conscience shall appertain. All of which your humble petitioner as in duty bound will ever pray. All of which your humble petitioner is ready to prove."

The petition of Counsellor Coleman reads as follows :

"And now comes before this Supreme Court S. David Coleman, one of the practicing lawyers before the Supreme Court and the inferior courts of this Republic for a period of quite thirty calendar years certain, praying that this Supreme Court will graciously invoke its feelings of pardon, mercy and forgiveness in the matter of his suspension for civil contempt of Court, decided on May 29, 1953, and for cause thereof, shows the following facts :

"1. That your humble petitioner has, for a period of quite thirty calendar years certain, been regularly practicing law before the courts of this Republic, and during the said period has carried an unbroken record of honesty and good behavior, coupled with a sacred and profound regard for the honor and dignity of the courts as well as the moral ethics of the legal profession.

"2. That your humble petitioner solemnly disavows all intention of, and categorically denies ever having intended contempt to the Supreme Court of Liberia.

"3. That your humble petitioner further regrets the circumstances which brought about the unfortunate happenings which culminated in the judgment of contempt

rendered by this Supreme Court, most humbly averring his penitence and humbly praying pardon, mercy and forgiveness therefor, and, in respect thereto, does further crave the pardon, mercy and forgiveness of this Supreme Court, and a remission of the penalty imposed upon him.

"4. That your humble petitioner further prays that this Supreme Court, in its gracious and merciful consideration of your petitioner's prayer and appeal for pardon, mercy and forgiveness, as mentioned, *supra*, which gracious and merciful consideration on part of this Supreme Court, your humble petitioner humbly submits he deserves, chiefly on account of the painful humiliation and suffering he has already undergone physically, mentally, as well as financially, since the aforesaid judgment, and which experience has also engendered within him a feeling of conviction and rendered him penitent and further resolved not to commit a similar offense in future against the dignity, honor and prestige of this Court; and that this Supreme Court, incident to the exercise of pardon, mercy and forgiveness, will be graciously disposed by its gracious and Godly act of showing pardon, mercy and forgiveness; remembering that petitioner's offense, committed against this Court, is but one of those acts of uncontrolled misfortune common to man, and due to the frailty and imperfection of his human nature, and in which we find moral fortitude in the language of the sages: it is but human to err; but to forgive is Divine; and this your humble petitioner, as in duty bound, humbly prays.

"5. Finally, your humble petitioner, summing up the effect of the penalty he has already suffered as a result of the said decision and judgment, recounts the following :

(a) That already quite five calendar months of mental strain and suffering have been his humiliating lot.

(b) Five calendar months of financial deprivation and loss of legal practice have very seriously affected his domestic economy, in view of his profession as a practicing lawyer being his chief means of earning an honest livelihood for the support of himself, wife and a very large family numbering more than twenty children, who are immediate dependents, and whose education is a question of his greatest concern and indispensable duty.

(c) That your humble petitioner has also paid half of the entire costs in the aforesaid proceeding in keeping with the judgment of this Supreme Court as the record will prove.

"In view of the foregoing, your humble petitioner most respectfully prays this Supreme Court to reconsider its action and remit the remaining unexpired portion of the period of suspension imposed upon him, and further to grant unto your humble petitioner such other and further relief in the premises as, in its wise judgment and consideration of moral right, this petition deserves. And this your humble petitioner as in duty bound will ever pray."

The legal profession throughout the universe is a fraternity whose language the layman, regardless of his rank or station, can neither speak nor understand. This fact was made evident a few weeks ago when, convinced by the petitioner's attitude and conduct that they had repented their wrong, the Liberian National Bar Association, under the astute and erudite leadership of our present illustrious father of the profession, and unofficial leader of the bar, Counsellor Charles D. B. King, who is also President of the Liberian National Bar Association, did assemble, and, with one accord, decide to reenforce the petitions filed by Counsellors Brownell and Coleman, and accordingly prepared, signed, and filed a memorial before this Court in which they submitted the following request:

"May it please your Honors : We, the undersigned, representing the National Bar Association of the Republic of Liberia, have the honor to forward herewith attached copies of petitions of Counsellors Nete Sie Brownell and S. David Coleman, craving pardon from the Supreme Court and remission of the remaining portion of their sentence of suspension for three calendar years growing out of contempt proceedings against them in keeping with your decision handed down on May 29, 1953, and in connection therewith submit the following :

"1. That the National Bar Association genuinely feels that Counsellors Nete Sie Brownell and S. David Coleman should have been punished for contempt of the Supreme Court of Liberia.

"2. That the National Bar Association of Liberia now feels, from the behavior, attitude and actions of the two above-named counsellors, that they realize their error and are indeed and in truth sorry and penitent and are sincere in the averments of penitence contained in their petitions.

"3. That the National Bar Association, believing that the two above named gentlemen are sincerely penitent for their acts of contempt against this Court, joins them in appealing for reconsideration of the sentence of suspension, and prays for the

remission of the unexpired portion of the said sentence.

"4. That the National Bar Association most respectfully prays your Honors to take into consideration the plea of Counsellors Nete Sie Brownell and S. David Coleman with respect to the great financial hardships, inconveniences and losses they are undergoing by being deprived of their legal practice, which is one of the main sources of income for the support of themselves and families, and which, if continued for three calendar years, will worsen their economic condition very greatly, to their suffering, and that of their families, many of the members of whom are minors and cannot provide for themselves.

"5. That the National Bar Association feels that, should your Honors reconsider your decision in this matter and grant the clemency herein prayed for, Counsellors Nete Sie Brownell and S. David Coleman, now fully realizing their error, will not repeat their action or any action of a similar nature.

"Wherefore, we, members of the National Bar Association of Liberia, most respectfully pray that your Honors kindly give due consideration to the petitions of Counsellors Nete Sie Brownell and S. David Coleman, and grant unto them the relief herein prayed for."

The petitions were duly read and, after hearing expressions from each of the counsellors, the Court listened with interest to the President of the Liberian National Bar Association, Counsellor Charles D. B. King, who, in confirming the sentiments expressed and prayers contained in the several petitions, also emphasized that the dignity of the Court must at all times be maintained under any circumstances, but that meanwhile he craved sympathetic consideration in the petitioners' behalf. The Court compliments Counsellor King for these sentiments ; for it is our opinion, point of view, and firm position that, whenever we have occasion to penalize any person, whether lawyer or layman, for contempt, we do it not merely because we regard their conduct as offensive, but rather because the Supreme Court must always be exalted and its dignity maintained.

Passing now upon the petitions, in our opinion this is a matter which requires discretion more than application of law. We realize that it is within our power to extend mercy to the petitioners if their conduct and attitude since their suspension warrant same. We have been impressed that the petitioners are really penitent, and that they have resolved never to repeat the offenses committed by them. Out of respect for our brethren of the profession, whose appeal in petitioners' behalf we

consider conscientious and honest, and, because of the painful humiliation and financial and economic embarrassments which petitioners have suffered, we have been moved to grant them pardon and bestow upon them mercy and forgiveness. We grant their petitions and decree: (1) that the sentence of three years imposed upon them be, and the same is hereby reduced to one year, commencing May 29, 1953, and ending May 29, 1954; and (2) that, since the petitioners have paid their own costs for the filing of their petitions, further costs are disallowed ; and it is so ordered.

*Petition granted in part.*