

MOSES DWEH, Informant, *v.* His Honor,
D. W. B. MORRIS, Resident Judge Presiding over
the Circuit Court of the Sixth Judicial Circuit,
Montserrado County, JAMES W. BROWN, Sheriff of
Montserrado County, and EMANUEL H.
BLACKETT, Agent for AMELIA BISHOP,
Respondents

PROCEEDINGS ON INFORMATION OF CONTEMPT OF COURT.

Argued May 12, 1966. Decided June 30, 1966.

1. The Supreme Court will not entertain an information for contempt which raises the same issues as an appeal pending before the Court.
2. Counsel may be disciplined for attempting to mislead the Court.

A bill of information alleging that the respondent had committed contempt of the Supreme Court was *dismissed*.

A. Garga Richardson for informant. *G. P. Conger Thompson* for respondents.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

These contempt proceedings were instituted in this Court by a bill of information consisting of seven counts. The respondents filed returns thereto comprising five counts. We deem Count 1 of the respondents' returns worthy of consideration. It reads as follows.

"1. Respondents say that informant, having taken an appeal from the ruling of the respondent trial judge, should have followed up the appeal in keeping with law; but to have brought an information to this Court against the same parties and the identical subject matter from which he taken an appeal would appear to respondents contemptuous—that is to say, caus-

ing this Court to assume original jurisdiction over a cause decided by the lower court from which an appeal has been taken, said appeal not having been perfected, and thereby attempting to place this Court in an anomalous position; for this Court would be deciding a matter prematurely which may be brought before the full bench after the appeal is perfected to be reheard."

Informant confirmed Count 1 of respondents' returns in that he made clear that he did announce an appeal in the matter decided by the respondent judge but later withdrew the said appeal allowing his exceptions in connection with his said appeal to remain on the records. Having carefully examined the records in these proceedings, there is no showing in any part thereof which would indicate that informant had in a formal manner withdrawn his said appeal as alleged in his brief.

It having been shown by the respondents and admitted by the informant that an appeal was taken to the ruling of the respondent judge in an injunction action in which the present informant was plaintiff and the other present respondents were defendants, the record in that case contains the following statement.

"Informant excepts to the ruling with respect to respondent Blackett being reimbursed after having illegally entered the premises and hereby appeals to the Honorable Supreme Court of Liberia sitting in its October-March term 1965."

The informant having announced an appeal from the ruling of the respondent judge and having failed to make any showing that his said appeal had been withdrawn, this Court not only refuses to consider the merits or demerits as may be contained in his bill of information but considers his act in endeavoring to mislead this Court, as highly contemptuous. This Court has held that:

"The want of proof will defeat the best laid action; the statement of facts in a declaration, however

clearly and logically they may be set forth, cannot be taken as proof of their truthfulness." *Jogensen v. Knowland*, 1 L.L.R. 266 (1895) Syllabus 2.

In view of the foregoing, the bill of information is hereby dismissed with costs against informant. Further, because counsel for informant adroitly attempted to mislead this Court, he is hereby fined the sum of \$50 to be paid to the marshal of this Court within 48 hours immediately following the reading of this opinion, which fine the marshal is ordered to deposit in the Bureau of Revenues, obtain an official receipt therefor, and exhibit same to His Honor, Chief Justice A. Dash Wilson, Sr., within the above-specified time. Upon his failure to pay the amount of fine hereinabove named within the time mentioned, the said counsel is hereby suspended from the practice of law, directly or indirectly, until said amount is duly paid, deposited, and the official receipt therefor exhibited to the Chief Justice as aforesaid. And it is hereby so ordered.

Bill dismissed.