

THOMAS E. GOODRUM, Appellant, v.  
REPUBLIC OF LIBERIA, Appellee

APPEAL FROM THE CIRCUIT COURT, FIRST JUDICIAL CIRCUIT,  
MONTSERRADO COUNTY.

Argued March 24, 1971. Decided May 28, 1971.

1. Malice aforethought may be either express or implied, and when a human being has been deliberately killed by another the law will presume malice even though no particular enmity has been shown.

The defendant was indicted for murder, tried, and convicted after a jury trial. In his appeal from the judgment, the appellant did not deny that a homicide had occurred, but he contended that the verdict should have been manslaughter and not murder, since nothing presented in evidence tended to show malice aforethought. *Judgment was affirmed.*

*J. Dossen Richards* for appellant. *Solicitor General George E. Henriess* for appellee.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

This case arose on June 3, 1970, at a certain restaurant known as "La Boheme," situated on Benson Street, Monrovia, when the appellant stabbed Mr. Van der Schans with a knife and caused his death therefrom. Although appellant immediately fled from the scene, he was duly arrested and indicted for murder by the grand jury for Montserrado County, and was later tried and convicted.

When this case was called for argument, the appellant's counsel contended that nothing presented in evidence indicated premeditation or malice and that manslaughter should have been the jury's findings, for the defendant did not deny the homicide.

In *Darnenoh v. Republic of Liberia*, 4 LLR 308 (1935), the Court spoke of malice, saying that any person who shall without legal justification or excuse, unlawfully, and with malice aforethought, kill any human being thereby, commits murder; and when a human being has been deliberately killed by another the law will presume malice even though no particular enmity has been proven; malice aforethought may be either express or implied.

In the same manner it has been held that to constitute malice aforethought in murder there need not be an old quarrel, or a long period of resentment, envy or spite. *Koh-Giddue v. Republic of Liberia* and *Krahn-Gbo v. Republic of Liberia*, 8 LLR 141 (1943).

The text writers have also dealt with the problem.

At common law and under many statutes a homicide may be malicious, and hence be murder, although there was no actual design to take life. If an unlawful act, dangerous to and indicating disregard of human life, causes the death of another, the perpetrator is guilty of murder, although he did not intend to kill. Thus if an assault was made upon deceased, not with the design of killing him, but of inflicting great bodily harm upon him, it is murder if his death is caused thereby. And it is murder where death results from an assault or other unlawful act, intentionally done in such a manner as was likely to cause death or serious bodily harm, even though there may have been no actual intent to cause death or great bodily harm. It is murder if death is caused by the intentional and unlawful use of a deadly weapon in a deadly manner, provided in all cases there are no circumstances serving to mitigate, excuse or justify the act. 21 CYC. 712-715.

The broadest proposition that can be formulated about malice is that as a word of description it includes all those states and conditions of mind which

accompany a homicide that is committed without legal excuse or extenuation. This proposition seems to be agreed on by all authorities, and will serve as a satisfactory practical definition. Malice in this connection is not limited in its meaning to hatred, ill will, or malevolence, but denotes a wicked and corrupt disregard of the lives and safety of others—a failure to appreciate social duty. It is not necessary that this condition of the mind or heart be characteristic of the slayer, who may in fact be in general a man of good and not bad heart; but if any act or conduct of his, to the injury of another, is a wicked act, or act denoting depravity at the time, it is a malicious act in law. If the act which produced death be attended with such circumstance as indicate a wicked, depraved, and malignant spirit, the law will imply malice, without reference to what was passing in the slayer's mind at the time. Where the offense is statutory, proof that the act prohibited by the statute was done wilfully and intentionally establishes malice. 13 R.C.L. 764.

Appellant having admitted the killing of decedent in this case without any showing of mitigating circumstances to justify or excuse the act, it is obvious that the verdict of the trial jury and final judgment of the lower court should be upheld.

Therefore, in view of the foregoing, the final judgment is hereby affirmed.

*Affirmed.*