SAMUEL S. LEDLOW, Appellant, vs. **THE REPUBLIC OF LIBERIA**, Appellee.

[January Term, A. D. 1901.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Murder.

Plea of insanity—Expert testimony—Grades of evidence—What the State is bound to prove, to warrant conviction.

In a trial upon an indictment for murder it was held that the plea of insanity is a good plea in bar, and when entered by prisoner it becomes imperative upon the State to prove the sanity of the prisoner to warrant conviction. It was also held that expert testimony of a duly qualified physician is evidence of a high grade and when based upon diagnosis of the particular case should be received with great weight. So, also, evidence showing the strange actions of a prisoner tending to show an unsound state of mind, is admissible where insanity is plead.

It was also held that there are degrees of insanity and that a party may be mentally deranged with respect to certain things, as when one is under an hallucination that somebody is seeking to kill him, while on other matters his mind and memory may be sound.

This case is before this court upon an appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County. From an inspection of the record in the case we find that the appellant was indicted and tried at the June term of the Court of Quarter Sessions and Common Pleas of said county, 1900, for the atrocious crime of murder, to which charge the appellant pleaded "not guilty."

A jury was empanelled to try the issue raised by appellant's plea, and after hearing the evidence in the case and the arguments by the counsels for and

against the accused, the case was submitted to the jury, who, after deliberating, returned a verdict of "guilty." Upon the said verdict the court below, on the 3oth day of June, 1900, pronounced sentence, condemning him, the said Samuel S. Ledlow, to the punishment of death. To this judgment, as well as to the several specific rulings of the court below, during the trial, on questions of evidence, the appellant excepted and has brought the case before this court upon a bill of exceptions, for its review.

Having thus stated the nature of the case, the court will now consider the several exceptions laid in appellant's bill of exceptions. As to the first, second and third exceptions laid in the said bill, the court is of the opinion that these exceptions are not well founded in law, because the queries put to witnesses Smith and Porte by the State's attorney, and objected to by the counsel for the defense, were relevant to the issue and were proper questions to be put to the witnesses. The court below therefore did not err in overruling the objections raised to said questions. Passing over the fourth exception in the bill of exceptions, which this court does not regard material to its decision, the court will now proceed to consider the points raised in the fifth, sixth, seventh and eighth exceptions to the rulings of the court below upon questions propounded to witnesses Moore and Coker.

From the record we find that witness Moore, who was a witness for the defense at the trial, gave in evidence, based upon his scientific knowledge as a regularly qualified physician, his opinion on the general nature and description of that disease of the mind called in medical jurisprudence dementia accidentalis, which disease, in one of its forms, the accused alleged he was affected with. This witness further stated that the accused had been under his treatment prior to the time when the homicide was committed, and that the diagnosis made in his particular case revealed the fact that the accused was suffering from some mental derangement which rendered him insane in a degree. This testimony was of vast importance to the case and, unless impeached by strong rebutting evidence, ought to have been received with a considerable degree of weight. So too with the testimony of Coker, which, although not coming from a medical man, was nevertheless pertinent to the case, because it revealed facts concerning the strange, uncustomary actions of the accused, shortly before the commission of the crime charged; which evidence, taken with that of Dr. Moore, would tend to enable the jury to

determine whether or not the agent of the crime was such a person as the law would fix responsibility upon. The testimony of Moore and Coker was essentially relevant, as were also the questions propounded to them by the counsellor for the defence and ruled out by the court below. This court is firmly of the opinion that the judge of the court below erred in ruling out the said questions. (Lib. Stat. Bk. 1, Chap. 12, secs. i and 32; I Arch. Crim. Prac. and Pleadings, pp. 33, 34.)

We proceed next to consider the ninth and tenth exceptions laid in the appellant's bill of exceptions, upon which exceptions the case chiefly hangs. In these exceptions the appellant maintains that his guilt was not made out by the State at the trial with that certainty required by law, and that therefore the court below ought to have granted him a new trial, upon the ground that the verdict was manifestly against the evidence.

Let us see by reference to the record whether sufficient evidence was produced at the trial to exclude every reasonable hypothesis as to the innocence of the accused ; secondly, whether the plea of insanity raised by the counsellor for the defense in his arguments, in excuse of the homicide, was supported at the trial by unimpeached evidence, and whether the plea is sufficient in law to excuse the prisoner; thirdly, whether the prosecution made out the sanity of the accused beyond a reasonable doubt ; fourthly, whether a person who is under an insane delusion as to existing facts, and commits an offence in consequence thereof, is thereby excusable; and lastly, whether there were apparent grounds for setting aside the verdict of the jury and awarding a new trial.

As to the first proposition, this court would remark that it has most carefully and scrutinizingly examined the whole evidence in this case, and has patiently applied the law governing evidence in such cases. From the testimony of the witnesses Coker, Moore and Porte there is proof that the accused was suffering from mental delusion on this particular point; namely, that some person or persons, fancied in his mind, were seeking to take his life either by means of witchcraft or otherwise; that the accused called at Coker's house three different times immediately before the day the crime was committed, and that his conduct on these occasions was not that of one in a sound state of mind. Witness Porte testified that he had discovered the accused not to be

in a sound state of mind about five years ago; and he goes on to corroborate the strange conduct of the accused mentioned by witness Coker, which also led him to believe in the insanity of the prisoner. Witness Moore's statement is also very pertinent to the cause, first because of its scientific or professional character, and secondly on account of the direct knowledge which he claims to possess, growing out of his diagnosis of the accused made in this particular case. To the plea of insanity, upon which the case chiefly rested, the testimony of witness Moore was indeed of great weight and value to the determination of said plea.

This court is unanimously of the opinion that the testimony of the aforesaid witnesses did establish a cogent case in favor of the accused, which the State should have rebutted by evidence of such preponderance as would have excluded every reasonable and rational doubt as to the guilt of the accused. (I Arch. Crim. Prac. and Pleadings, p. 350, note 1 ; I Bouv. Law Dict. pp. 717, 718, under the head of "Insanity.")

As to the second and third queries, the court would remark before proceeding further that homicide is divided by the common law authorities into three classes, namely, excusable homicide, felonious homicide or murder, and justifiable homicide. To constitute murder, which is the crime for which the accused was indicted, there must be a willful killing of some human being, and there must appear to have been malice, either expressed or such as can legally be implied. According to Coke's definition of the term (II Bouv. Law Dict. p. 201, under the head of "Murder"), the agent must be of sound mind and memory; and this definition of Mr. Coke is sustained by most, if not all, of the English and American common law writers.

Insanity, therefore, is a good and lawful plea in cases for murder, and if clearly and substantially proven will operate as a bar to a prosecution for murder, by showing that the law regards such homicide as excusable. But great care should be exercised in acquitting a prisoner on this plea. It would be as difficult as it would be unsafe, to lay down a rule that would apply to the infinite variety of forms in which insanity or derangement may show itself. Each case must therefore depend very much upon the circumstances, facts and developments which attend it.

In the case of the United States against McGlue (I Curtis U. S. C. C. Rep.) the learned Judge Curtis remarked that there are undoubtedly persons of great general ability, filling important stations in life, who upon some one subject are insane; and there are others whose minds are such that the conclusion of their reason and the result of their judgment are very far from being right. But, says he, it is not the business of the law to inquire into these peculiarities, but solely whether the accused was capable of having and did have a criminal intent. If he had, it punishes him, if not, it holds him unpunishable. And it supplies the test by which the jury is to ascertain whether the accused be so far insane as to be irresponsible.

This court is of the opinion that there was strong and sufficient evidence produced at the trial, as already referred to by us, to show that the accused, at the time the crime was committed, was laboring under the delusion that people wanted to kill him and that his life was in imminent danger, and this fact, taken in connection with the circumstances under which the homicide was committed, renders the offence excusable in law. The court below therefore erred in not awarding a new trial and in pronouncing sentence upon one whom it had been clearly shown was not sound in mind and memory. This court does not hesitate to declare its unwillingness to confirm a judgment of death where it appears that the homicide is excusable. It is better, observes Sir Mathew Hale, that ten guilty persons go unpunished than that one innocent person should be punished; but how much more proper, is it not, that courts should in all cases acquit when the innocence of the accused is made apparent to it. The judgment of the court below is therefore reversed and the clerk of this court is hereby authorized to notify the judge of the court below of this decision.

And for the public safety this court further directs that the said Samuel S. Ledlow, who has been made to appear as not being in a sound state of mind, shall not be set at large, but must be confined in prison until such time as his sanity can be made to appear, upon a certificate to be signed by at least two qualified physicians, certifying to his sanity, whereupon the president, if satisfied, may grant his release.