

ANGELINA SPILLER, Appellant, v. **JANE ROBERTS**, Appellee.

ARGUED APRIL 21, 1915. DECIDED MAY 10, 1915.

Dossen, C. J., Johnson and Witherspoon, JJ.

Petty Misdemeanors—Indictable Misdemeanors—Jeopardy.

1. Petty misdemeanors over which a justice of the peace or magistrate has conclusive summary jurisdiction does not put a defendant in peril of *life* or *limb* because the punishment in such cases is monetary and not corporeal.
2. In prosecution for indictable misdemeanors the prisoner may plead a second jeopardy successfully if he has been previously acquitted or convicted upon the same charge.
3. The test of jeopardy is indictment and arraignment.

Court's ruling on motion to dismiss.

Mr. Chief Justice Dossen delivered the opinion of the court :

Infraction of the Peace—Motion to Dismiss. This case comes up upon appeal from the Circuit Court for the first judicial circuit, Montserrado County.

The case originated in the City Court of Monrovia, and was brought against defendant, now appellant, upon the complaint of appellant, who charged appellee with committing an infraction of the peace by abusing her. The City Court sustained the charge and gave judgment against appellee, defendant below, from which judgment defendant, now appellee, appealed to the Circuit Court aforesaid which court reversed said judgment and ruled the prosecutrix, now appellant to costs. From this judgment appellant took out an appeal and has brought the case before this judicature for review.

Before the case was reached on the trial docket and assigned for hearing, counsel for appellee under rule, entered upon the motion docket a motion to

dismiss the appeal on the following ground :

"1. Because this is an appeal in a case of misdemeanor and is taken from a judgment of acquittal rendered in favor of defendant, now appellee, and under the Constitution and laws of this Republic such an appeal should not be allowed as it would put defendant, now appellee, a second time in jeopardy for the same offense." See motion.

The provision of the Constitution relied upon in this motion applies to indictable offenses and not to misdemeanors over which magistrates and justices of the peace have exclusive summary jurisdiction.

The Constitution provides that no person shall for the same offense be twice put in jeopardy of *life* or *limb*. (Vide Const. Lib.)

It is obvious that in a prosecution before a magistrate for a petty misdemeanor, the defendant is not put in jeopardy either of life or limb because the punishment attachable to such offenses is merely monetary and not corporeal except in cases of petty larceny.

The test of jeopardy is indictment and arraignment thereupon. The term is inapplicable to suits of the nature of the one at bar.

In the case *Wood v. Republic of Liberia* (1 Lib. L. R. 445) this court went into an exhaustive treatment and definition of the term, as employed in the Constitution of Liberia, and enunciated principles in relation therewith, which we believe are well upheld by the weight of opinion of criminal law writers on the definition of jeopardy, and which we see no ground for disturbing. Statutes of different states have modified the common law definition but those statutes have no force in this Republic.

The motion to dismiss is denied and the case ruled to continue on the trial docket until the next term of this court, and it is so ordered.

A. Karnga, for appellant, *L. A. Grimes*, for appellee.