

ROGERS A. T. CAPEHART, Petitioner-in-Error,
v. REPUBLIC OF LIBERIA and His Honor AARON
J. GEORGE, Judge of the First Judicial Circuit Court,
Montserrado County, Respondents-in-Error.

WRIT OF ERROR TO THE CIRCUIT COURT OF THE FIRST JUDICIAL
CIRCUIT, MONTSERRADO COUNTY.

[Undated.]

Change of venue in criminal cases can be effected only if the accused appears in person before the court and declares under oath that on account of local prejudice he fears he will not be able to obtain justice.

The case is stated in the opinion. *Remanded* to court below with permission to petitioner-in-error to seek change of venue in accordance with terms of the governing statute.

N. H. Sie Brownell for petitioner-in-error. *The Attorney General* for respondents-in-error.

MR. JUSTICE GRIGSBY delivered the opinion of the Court.

This case has been brought up to this tribunal by petitioner-in-error from the Circuit Court of the First Judicial Circuit, Montserrado County.

It appears from inspection of the records in the case that petitioner-in-error was indicted for the crime of forgery in the Circuit Court of the Fifth Judicial Circuit in the County of Grand Cape Mount at its May term, 1928. Feeling that there existed local prejudice against him in the County aforesaid, he desired a change of venue in keeping with existing statute laws.

Petitioner-in-error subsequently proceeded to Monrovia and procured the services of an attorney-at-law, who thereafter wrote a letter to Judge Russell, the resident

Judge of the Fifth Judicial Circuit, County of Grand Cape Mount, informing him of an enclosed application for a change of venue. The Judge thereupon issued an order to the clerk of said court to forward the entire records in said case to the Circuit Court of the First Judicial Circuit, Montserrado County.

The respondents-in-error motioned the court to return the case to the court of its origin due to improper change of venue, the court sustained the motion, and the petitioner-in-error being dissatisfied comes before this Court on a writ of error. The Court is of opinion that venue in criminal cases can only be changed by the accused appearing in person before the court, either in chambers, or at its regular jury session and making an oath that on account of local prejudice he believes or fears that he will not be able to obtain justice. Act of Legislature approved January 19, 1903.

Before a change of venue can be granted the judge who grants the change must be within his jurisdiction and not otherwise.

While the Court admits that change of venue is a right granted to a party charged with having committed an offense, yet to avail himself of such a right it is necessary that he strictly comply with the statutory provisions.

The Court having set out the manner in which persons charged with committing offenses shall be permitted to obtain a change of venue, the petitioner-in-error is now at liberty to exercise his rights in keeping with the said Act.

The case is therefore remanded to the court below in which the accused stands indicted and the Clerk of this Court is hereby ordered to notify the court below as to the effect of this judgment.

Remanded.