

JOSHUA A. CRAWFORD, Appellant,  
v. REPUBLIC OF LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,  
MONTERRADO COUNTY.

Argued April 7, 8, 1935. Decided April 26, 1935.

1. Robbery is the felonious and forcible taking of goods or money from the person of another by violence, or putting him in fear.
2. The possession of the party from whom the goods are thus taken by violence, or putting in fear, may be either actual or constructive.
3. The taking may be actually begun in the presence of the party robbed, and completed in his absence.
4. The force or violence may be either actual or constructive, provided the power of the owner to retain possession was overcome by the robber either by actual violence physically applied, or by such conduct as may overpower his will.
5. An indictment for robbery is sustained by evidence showing that the defendant, posing as an officer of the law, took money from the complainant on the pretext that he was levying a fine under a statute which was obsolete.

Defendant was convicted of robbery by the Circuit Court of the First Judicial Circuit, Montserrado County. On appeal to this Court, *judgment affirmed*.

*E. W. Williams* for appellant. *R. F. D. Smallwood*, County Attorney for Montserrado County, for appellee.

MR. CHIEF JUSTICE GRIMES delivered the opinion of the Court.

According to the records filed here, Joshua A. Crawford, appellant, had been a justice of the peace stationed at Firestone's Plantations No. 7, otherwise known as Kingsville; but inasmuch as his commission had expired at the time this offense is alleged to have been committed, he sometimes functioned and sometimes did not, as appeared to him expedient.

The officer to whom he usually directed his process, and who apparently served him in other capacities also, was a James A. King, jointly tried with the said appel-

lant, but who, having elected to abide by the judgment of the court below, is not one of the appellants in these proceedings.

There was a Madam Konah, a Buzi woman, wife of a soldier of the Liberian Frontier Force, who lived partly at Camp Johnson in Monrovia, and partly at Manforquella in our hinterland. She had been to Monrovia sometime in the latter part of February or early part of March 1934, and had sold a tusk of ivory to Messrs. A. Woermann, Monrovia, which realized eleven pounds sterling and for which she received, according to her statement and that of the first Zeyzey, hereinafter referred to as Zeyzey No. 1, five pounds in specie and six pounds in merchandise; or, according to Mr. Roesing, bookkeeper for the said firm of Woermann, six pounds in coined money and five pounds in merchandise. After having sold the ivory, she left Monrovia in company with one Zeyzey of Manforquella, the Zeyzey No. 1, a fellow tribesman of hers, and reached Firestone Plantations No. 7 early the Sunday morning thereafter, where they were the guests of another Zeyzey who lived in the said Firestone Plantations No. 7, hereinafter referred to as Zeyzey No. 2, and who was also a fellow tribesman of both Madam Konah and Zeyzey No. 1.

After having breakfasted at the home of their stranger-father (host), the Zeyzey No. 2 of Kingsville, Madam Konah and the Zeyzey No. 1 formerly mentioned began the continuation of their journey towards the hinterland, but as they arrived opposite the residence of James A. King, the reputed constable, he halted them, and seized and impounded their kingjahs, claiming that it was contrary to law for anyone to pass through the village with loads on Sundays, and that he had the authority of the former justice of the peace, Crawford, to retain their loads until the following day unless they should pay to him the sum of 4/6, provided that if the 4/6 were not paid on Sunday and the loads remained stored with him until

Monday, they would have to pay 5/-. They then returned to the Zeyzey No. 2, their stranger-father as aforesaid, and related to him what had befallen them. He denied that any such regulation was in force there, and immediately accompanied them to King, the constable, protesting against the procedure, saying *inter alia*, "Since you all brought a new law that no one is to walk on Sundays you all have not as yet informed us, as we see people even working on Sundays. When the Government sends a law like this, you all should call us and inform us, and if you had informed me that no one is permitted to travel on Sundays with loads I would not have allowed these people to leave my place." He also testified, "I said further that, 'Since it has happened so, my place is far from here; give them the load and let them go and sleep to (sic) my place until tomorrow morning and then they will pass.' King said he would not do it; then I said, 'You won't do it and Crawford put you here and Crawford is over all of us; I will go and see Crawford himself.'"

The three of them (Konah, Zeyzey No. 1 and Zeyzey No. 2) went in search of Crawford and eventually located him. After some parley he consented to have the loads released upon payment of  $\frac{1}{2}$  and was sending instructions to King to that effect when King himself appeared on the scene at Crawford's house. King then took Crawford aside and they had a private conversation out of earshot of the others. After this conversation it is worthy of note that Crawford's whole attitude appeared to have been changed; for although he had at first appeared to have taken no personal interest in the matter save the extortion of a few shillings for the delivery of the loads, he thereafter began to temporize, and to make obstacles to the delivery of them on that day. Eventually, however, in the evening, the amount of  $\frac{1}{2}$  was paid and Madam Konah, having demanded to be

permitted to examine her load (bundle) before taking delivery, the privilege was refused her and she and her load were violently thrust out into the public highway. This, as is natural, increased her suspicion, and so she sat down in the road and immediately examined her bundle exclaiming the while that, "This is the public road and I will examine my bundle here."

To her surprise and dismay there was missing from her bundle a small parcel in which she had wrapped her five pounds in specie before placing the small package in the larger bundle.

The whole party went in search of Crawford, to whom they complained of the loss. He at first said that as the day was Sunday he could not look into a complaint of that nature; but they, being importunate and having pointed out that he had consented that the load be given up on Sunday upon the payment demanded, he ultimately made the following conditional promise, "You come back tomorrow, and if then you can swear on karfu, or on sassywood, that you had five pounds in the bundle I will cause same to be returned to you." Upon this understanding they parted for the night.

The next morning Crawford refused to administer the karfu, or any other "medicine," in spite of Madam Konah's professed willingness and readiness to swear on any medicine that she had had five pounds in specie in the bundle when it had been seized by King. Crawford now began to insist that she must sue King as he had no responsibility in the premises.

This is a brief synopsis of the facts placed upon record by the witnesses who testified after Crawford and King had, upon complaint of the said Konah, been indicted by the grand jury for Montserrado County.

The questions presented for our consideration are:

- 1) Was it established that Mrs. Konah lost £5:0:0 out of the bundle seized by King?

- 2) If so, and conceding that the taking was felonious, was the charge of robbery sustained by the evidence adduced?
- 3) Was or was not Crawford *particeps criminis*?

With regard to the question numbered one, the testimony of Madam Konah that she had five pounds in the kingjah (bundle) was corroborated directly by Zeyzey No. 1, who said that the morning they were about to leave Firestone No. 7 it became necessary to add sundry articles to the kingjah, and on opening it the parcel containing the five pounds was still there. The Zeyzey No. 2 testified that before they left his house that morning the five pounds were wrapped in a handkerchief and put into the kingjah before his own eyes. Mr. Roesing, the German bookkeeper of A. Woermann, testified that Madam Konah had sold an ivory at their store and received therefor eleven pounds, six pounds of which were paid in specie. John W. Roulhac, called for the defense, stated that when the bundle was opened in the roadside and the money could not be found, the woman Konah wept bitterly. This statement was also corroborated by Zeyzey No. 2. These facts taken together are, in our opinion, a sufficiently strong affirmative answer to question numbered one, *supra*.

In our opinion the first part of question numbered two should also be answered affirmatively, because the taking was not only unwarranted by law, but done *lucrica causa*, and thus one cannot but find the taking felonious. To completely answer question numbered two, however, we must look at the definition of robbery and how it may be committed, and to that we shall now proceed to direct our attention.

According to our Criminal Code (1914) robbery is defined as:

“The felonious and forcible taking from the person of another, goods or money to any value, by violence or putting him in fear. The felonious or forcible taking

of the goods or money or personal property of another in his presence by violence or putting him in fear, shall be deemed robbery." Criminal Code, p. 13, § 63.

Greenleaf in his treatise on *Evidence* in criminal cases supplements the above definition as follows:

"This possession by the party . . . may be either actual or constructive. [It, therefore,] may be proved by evidence that the goods were *in the presence* of the party robbed; as, if the robber, having first assaulted the owner, takes away his horse standing near him; or, having put him in fear, drives away his cattle; or takes up his purse, which the owner, to save it from the robber, had thrown into the bush. And it is sufficient, if it be proved that the taking by the robber was actually begun in the presence of the party robbed, though it were completed in his absence." 3 Greenleaf, *Evidence* (16th ed., 1899) § 228.

"In regard to the *force* or *violence* with which the goods were taken, this may be actual or constructive: the principle being this, that the power of the owner to retain the possession of his goods was overcome by the robber; either by actual violence physically applied, or by putting him in such fear as to overpower his will." *Id.*, at § 230.

The only remaining question then is: Was or was not Crawford *particeps criminis*? To the best of our understanding of the law and the facts an affirmative answer should be given to this question also. For it was Crawford who endeavored to revive an obsolete law, that cited by Mr. Williams who argued the case in his behalf, Art. V, p. 138, sec. 4 of the *Old Blue Book* which reads *inter alia*:

"That there shall be a town meeting, under the direction of the Magistrates, . . . for the purpose of levying such taxes as may be necessary for township pur-

poses. And further to appoint . . . three overseers of Police—the last to . . . guard the ingress of natives on the Sabbath day and prevent the desecration of same by colonists.” etc.

This was the only citation offered to bolster up Crawford's attempt to extort money from peaceful travellers on the public highway. It was he, and he alone, who could, and did, reduce the amount to be paid from 4/6 to 1/6, ordering the kingjah released after said money had been paid. It was he who said to the victim, “When you return tomorrow I will bring medicine, and if you will swear that you did lose five pounds then I will cause it to be returned”; but when she returned the next morning ready to swear on the “medicine” he refused, and sent her away to one King claiming to know nothing about her money.

Adverting to the statute quoted by Mr. Williams from the revision of 1856, commonly known as the *Old Blue Book*, the Court has found that the provision hereinbefore quoted was considered so obsolescent when in 1911 the Revised Statutes were compiled by the late Justice McCants-Stewart, that it was not therein included; and since the opening of roads into the hinterlands, and the promotion of free intercourse between the civilized and aborigines, that part of said statute has been considered entirely obsolete. But even said statute, when in force, did not authorize the imposition of any fine as Crawford, the appellant, illegally ordered; and it is by all the laws in vogue in this country illegal for him to impose a fine and appropriate it to his own use as the records show he did.

Apart from the actual violation of the law that would be a reprehensible act committed by any inhabitant, the offense is considerably aggravated in this case since the offender is one who posed as an officer of the law, and under color of said office robbed peaceful travellers on the public highway. In order to give greater emphasis

to our view of this special aspect of the case our absent colleague, to whom the preparation of this opinion had been entrusted before his departure from the Capital, had been contending that the punishment fixed by the sentences of the court below should be doubled. But as he left before we had definitely committed ourselves to that view we have now decided, out of deference to his views, to add four months to the period of imprisonment fixed in the sentence of the trial court, and, in all other respects, to affirm the judgment of the court below; and it is hereby so ordered.

*Affirmed.*