

The State having made out a *prima facie* case against the prisoner Ledlow and the latter setting up an alibi, a very important question that arises is where Ledlow was on the night when the murder was committed. He himself stated on the stand that he left Lower Buchanan on Monday the 2nd and returned to his farm, and that he remained there until Friday the 5th; but several witnesses deposed that they saw him in Lower Buchanan on Tuesday the 4th of June.

Another link in the chain of evidence is that, when on the morning of the alleged assault upon decedent in May, decedent was describing how prisoner was dressed the previous night, saying that he had on his Chesterfield coat, a witness deposed that, just then Ledlow came into the decedent's house, having on a Chesterfield coat.

On the trial of this case, prisoner Ledlow called Francis Hill to prove that at the time of the alleged assault, he did not have the Chesterfield coat as he had left it at Mrs. Carter's for some days and also to prove that he had slept at Mrs. Carter's in Upper Buchanan on the night of the alleged attack, but failed in his proof.

In view of the foregoing, we are of the opinion that the case should be remanded with instructions to said court to hear all evidence that is produced by both parties that tends to throw some light upon the case. The medical certificate and evidence being still admitted as evidence. This case taking precedence of all other cases on the docket.

*Barclay and Barclay*, for appellants.

*L. A. Grimes, Attorney General*, for appellee.

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In re ROBERT H. DENNIS, Clerk of the Supreme Court, demanding cost for docketing the case M. C. H. Ledlow et al., Appellants, v. REPUBLIC OF LIBERIA, Appellee.

ARGUED APRIL 6, 1925. DECIDED APRIL 17, 1925.

*Johnson, C. J., Witherspoon and Bey-Solow, JJ.*

1. The Government neither pays nor receives costs.
2. The statutes requiring appellants to pay costs on taking an appeal do not apply to criminal cases.
3. The "fee bill" found in the Statutes of Liberia, Old Blue Book (Compilation of 1856), pages 28-32 of the Appendix shall be the guide for computing costs, and shall always be strictly followed in all civil cases.

4. In criminal cases, and other cases in which the Republic is a party, the officers of the court shall receive no costs except where it is otherwise specifically provided by some law.
5. When money is paid by a party to the clerk of a court for his services, it is fees; when moneys which have been expended by a successful party are repaid him by the losing party, it is costs.
6. Previous to the passage of the Acts of 1916 giving salaries to clerks of courts, marshals and sheriffs said officers were, in all criminal cases tried by the courts, paid by the Government, but said Acts prohibited their receiving fees in all cases in which the Republic was a party and gave them salaries in lieu of fees.

Mr. Justice Witherspoon delivered the opinion of the court:

Murder; On Appeal to this Court. Matthew C. H. Ledlow having been sentenced for murder in the Circuit Court of the second judicial circuit, Grand Bassa County, perfected his appeal to the Supreme Court for trial at this session. On presenting the records to the said clerk, he demanded twenty pounds sterling as cost for filing and docketing the case, in a letter he addressed to Miss Annette Ledlow, a sister of appellant, which letter reads as follows:

“Miss Annette Ledlow,  
Grand Bassa County.

Dear Miss Ledlow:

The records in the case Republic of Liberia versus Ledlow, et al., murder were received from the post office on the 10th instant. Reviewing said records I discovered that final judgment in said case was rendered on the 2nd day of December, A. D. 1924, which will end your time on the 2nd day of March, 1925; you are requested to make full payment of twenty pounds (£20.) by the end of this month. This is the best I can do for you, and unless this amount is transmitted before the above date stated, the time will be out for the filing of said case and I will not be responsible for said case.

Sgd. R. H. Dennis,

Chief Clerk, Supreme Court of the Republic of Liberia.”

This letter was by Miss Ledlow forwarded on to Sinoe to Justice Witherspoon, and is now before us. This demand was persistently continued here at Monrovia until the Chief Justice was called upon to give some ruling in the matter, though the clerk had already received five pounds sterling from the said Miss Annette Ledlow.

At the last November session of this court a letter of the above tenor was before us showing that the clerk, Mr. Dennis, demanded of a client of Counsellor C. A. Lincoln, on appeal from a judgment in which his client was convicted for grand larceny, the sum of

forty-five dollars and some cents, for filing and docketing the case in the Supreme Court. The court held an investigation in chambers with the clerk and strictly informed him that in keeping with the opinion and decision handed down by this court in the case *Jacob D. Freeman v. Republic of Liberia*, at its April term, A. D. 1915, the Government neither pays nor receives costs; this decision, paragraph 24 reads thus: "The statutes requiring appellants to pay costs on taking an appeal, do not apply to criminal cases."

In the courts of the United States, it has been repeatedly held that "the Government neither pays nor receives costs." This principle has been well established in the practice of this court, and may be regarded as applicable to the several courts of this Republic. (Rules of Supreme Court, Appendix to I Lib. L. R.; Bouv. L. D., vol. 1, Costs; 3 Bl. Com. 400.) The counsellors present were permitted to express their views in this matter, and they spoke highly approving the correctness of the court's position set forth above.

The court is of the opinion that this matter should be set at rest as has been expressed by some of the counsellors whilst expressing their views, for that the question has become an annoyance to the court and to counsellors and attorneys is felt by all. Therefore this court says that considering the fact that the majority of our citizens are illiterate, not knowing their rights under the law, and in many instances they are brought into our courts of justice without a knowledge of how to defend themselves, thereby falling, so to speak, as victims in the hands of officers of the courts who in many instances seek to take advantage of their ignorance; and, too many times without making up their bills of costs showing exactly what the law allows them to receive, simply say to the party: "pay me so much" which, if itemized, would in most instances be much less than the sum demanded; nor does the evil stop there, but it has a tendency to prevent parties from appealing to this court, and the courts are sometimes charged with the illegal practice of their officers, when in fact the judge has no knowledge of such acts; it is the court's intention first to establish the following as a guide for the payment of costs as is allowed by the statute law governing fees, that the fee bill as found in the Statutes of Liberia (Old Blue Book) pages 28-32 inclusive of the appendix in civil cases, be hereafter strictly followed.

That in criminal cases or in cases where the Government is concerned as a party the officers of the court receive no cost except where it is otherwise provided by some law. The seventh section of the Constitution, Article I, provides that:

“No person shall be made to answer for a capital or infamous crime except in cases of impeachment, cases arising in the army and navy and petty offenses unless upon presentment by a grand jury. And every person criminally charged shall have a right to be seasonably furnished with a copy of the charge, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have a speedy, public and impartial trial by a jury of the vicinity” etc.

The legal construction to be made of this section in our opinion fully settles the point as to the officers' right to demand fees or costs.

It was remarked by the Attorney General whilst discussing this matter that there was a difference between costs and fees as laid in the foregoing decision. We are of the opinion that the only difference between costs and fees is, when the money is demanded by the clerk and paid by the party, it is fees. But when it is returned to the successful party it is costs. The statute of Liberia settles the point. It says “in all final judgments, the successful party shall recover-.....dollars as his debt or damages as the case may be, and.....dollars for his costs.”

In 1916, the Legislature passed a general Act making clerks, marshals and sheriffs salaried officers, in this Act it is stated:

“That from and after the first day of April, 1916, the sheriffs, the marshals of the Supreme Court and the clerks of courts in lieu of fees which under existing laws are payable to them by the Government shall receive stated annual salaries,” etc.

It can not be denied that prior to the enactment above cited that these officers were paid by the Government in all criminal cases tried by the courts, therefore the said officers as enumerated in the above Act are prohibited from receiving costs for any services rendered parties in prosecutions as aforesaid. We might carry this comment a little further. “A” brings an appeal for grand larceny, the clerk of the Supreme Court demands fifty dollars for filing “A's” records in the office; after a review of the case by the Supreme Court “A” is discharged; under the Act making the clerk a

salaried officer, who can be made to pay "A" his fee or costs? Surely not the Government, hence the difficulty arises.

It is therefore the opinion of this court, that under the Act of 1916, the marshals, sheriffs and clerks of the several courts are prohibited from receiving fees or costs in criminal cases. We have before us two receipts showing that Miss Annette Ledlow has been made to pay to R. H. Dennis, clerk of the Supreme Court, five pounds sterling, equal to twenty-four dollars (\$24.00), and one receipt showing that the clerk of the Circuit Court, Grand Bassa County has exacted of her, Miss Ledlow, five pounds one shilling equal to twenty-four dollars and twenty-four cents (\$24.24). The clerk, Mr. Dennis, is required to immediately pay this amount back to Miss Annette Ledlow; the judge of the court below is hereby commanded to proceed, immediately upon the receipt of a copy of this decision, to issue the necessary warrants against the said clerk of the Circuit Court, second judicial circuit, Grand Bassa County for the collection of said twenty-four dollars and twenty-four cents, and same to be returned to Miss Annette Ledlow; and the clerk of this court is hereby commanded to proceed and strike off copies of this decision and transmit same under cover to the judge of each circuit as a future guide in matters of paying costs in criminal cases.

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