

CHRISTIE DOE, TOE NIMELY, JAMES WILSON and DOE WOLO, Appellants, *v.* REPUBLIC OF LIBERIA, Appellee.

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

Argued November 4, 6, 1947. Decided December 12, 1947.

In criminal cases the evidence must establish the guilt of the defendant beyond a reasonable doubt.

On appeal from conviction for false imprisonment, *judgment reversed.*

B. G. Freeman and *O. Natty B. Davis* for appellants.
The Solicitor General for appellee.

MR. JUSTICE RUSSELL delivered the opinion of the Court.

Daniel Siple, the private prosecutor in the above-entitled cause, complained that Christie Doe, Toe Nimely, James Wilson, and Doe Wolo did on May 5, 1946 unlawfully and wrongfully impose physical restraint upon his corporal liberty. They were indicted by the grand jury and at the November term, 1946, of the Criminal Assizes, Circuit Court for the First Judicial Circuit, Montserrado County, before His Honor W. Monroe Phelps, presiding by assignment, were tried and convicted on the charge of false imprisonment. The said defendants, having announced their exceptions, appealed from the rulings, verdict, and final judgment rendered against them and brought their cases forward to this Court for review.

At the trial Daniel Siple, the said private prosecutor, testified that on May 5, 1946 James M. Wilson, one of

the defendants, sent by the hand of Doe Wolo, another of the defendants, a letter asking him to come immediately since defendant Wilson's brother, one Worgeder, to whom he had given drink on the day before, was ill and he wanted Siplely to take him to the hospital; and that when he reached the house he found Worgeder sick, whereupon the defendants accused him of putting poison in the drinks which Worgeder had taken when he paid a visit to Siplely's home on the previous day. Siplely testified that shortly after he reached the house, defendant asked Siplely for the letter by which he had summoned him and Siplely delivered it to him. Siplely declared that he had denied having administered any poison whatsoever to the sick man, asserting that he had suggested that Worgeder be taken immediately to a medical doctor but that his suggestion was met with such vehement opposition on the part of the defendants, who preferred to have Worgeder taken to a native doctor, that he was about to depart when the defendants told him that he could not leave, demanding that he either find medicine to relieve the sick man or remain until he recovered. Thus, Siplely declared, he had to remain in defendant Wilson's house for several hours until his friend and landlord, one Marsohn Nimely, hearing of his plight, went to the house of detention and, after pledging himself responsible to produce Siplely the following morning, he was allowed to leave in the company of Nimely and return to his own home.

In the meantime, a report of said forcible detention having been made to the police, the defendants were arrested on the following day and an examination was held at the stipendiary magistrate's court, Commonwealth District of Monrovia. The case was sent forward to the grand jury. The defendants pleaded not guilty to the charge. Defendant Wilson testified that Daniel Siplely, the private prosecutor, having heard of the illness of his friend Worgeder, came to visit the sick man at his house,

that in the course of conversation Siplely admitted having on the day before given the sick man some drinks at his house, but said that he did not mean to poison him. Doe Wolo, whom Siplely testified had handed him the letter summoning him to Worgeder's bedside, categorically denied ever having delivered any letter to Siplely. In fine, all the defendants denied ever having summoned, or having used the slightest restraint upon the personal liberty of, the private prosecutor. Instead they insisted that Siplely, having knowledge of his friend's illness, had come to visit him voluntarily and that he could have left and did leave without any hindrance.

In sifting the evidence of the various witnesses, we note a serious contradiction in the testimony of Jacob Cummings and of Marsohn Nimely, witnesses for the prosecution. We quote the following from the record of Marsohn Nimely's testimony on the cross-examination:

"Q. At what time did you arrive on the scene?

"A. I think it was ten o'clock.

"Q. Please say while you were there, did the defendants or any of them impose any physical restricting on the corporal liberty of the private prosecutor?

"A. I saw him sitting in a chair.

"Q. Did you hear the defendants or any of them make any threats of violence at the private prosecutor?

"A. I didn't hear that.

"Q. Did you see Jacob Cummings on the scene that night when you arrived there about 10 o'clock, or any other time between ten o'clock and the hour you left with the private prosecutor?

"A. No, I did not see him.

"Q. About what time did you leave?

"A. When I got home I noticed my clock and it was 11:30."

On the cross-examination Jacob Cummings gave the following testimony:

"A. You said that you were told of the matter at ten o'clock p.m. Now please say when you arrived on the scene.

"A. At ten o'clock.

"Q. How long, approximately, were you in the home where the private prosecutor was detained?

"A. I cannot say exactly.

"Q. So, Mr. Witness, you do not know of your own certain knowledge, since you were not present during the whole time of the alleged forcible detention.

"A. From 10 o'clock to 11 o'clock was my own certain knowledge. . . ."

From the evidence quoted it can be clearly seen that the two witnesses deposed concerning the same facts covering the identical period in the same room of the same house yet they did not see each other. Furthermore, the prosecution's principal witness, Marsohn Nimely, testified that he only saw Siplely sitting down in a chair and that he did not hear any threats being made to the private prosecutor.

Our Criminal Code of 1914 in section 54 provides that:

"False Imprisonment. Any person who shall wrongfully and unlawfully impose any physical restriction upon the corporal liberty of another, whether such physical restriction shall be by private individual or by public officer, such as a sheriff, police officer or constable under colour of authority and right, or without colour of authority and right, with or without warrant, shall be guilty of a misdemeanor, and shall be punished by imprisonment not exceeding six months, or by fine not exceeding two hundred dollars."

It seems strange that the private prosecutor could muster only two witnesses to support his allegations out of at least fifty people who, all the witnesses testified, were present at the time Siplely alleged that his corporal lib-

erty was being restrained. We must also remark that the private prosecutor never made any attempt whatsoever to leave the building, even though the defendants did not exhibit a weapon which would be considered a sufficient force to deter his attempting to leave. In support of this view, we find:

“While actual force is not necessary, it is generally held essential that the conduct of the person complained of must show that force will be used to detain the plaintiff, if necessary, or that the person detaining him does so by some legal authority. The essential thing is the restraint of the person. This may be caused by threats, as well as by actual force; and the threats may be by conduct or by words. If the words or conduct are such as to induce a reasonable apprehension of force, and the means of coercion are at hand, a person may be as effectually restrained and deprived of liberty as by prison bars. . . .” 11 R.C.L. *False Imprisonment* § 5, at 793 (1916).

After a very careful review of the evidence in the case at bar, we fail to see where the prosecution produced sufficiently cogent evidence to establish the guilt of the defendants beyond a reasonable doubt. We are therefore of the opinion that the verdict of the jury is in opposition to the weight of evidence adduced. Consequently we are reversing the judgment of the court below and adjudging that the defendants be discharged without day and their bonds delivered up; and it is hereby so ordered.

Reversed.