

In re JAMES E. JOHNSON, Attorney-at-law,
Appellant.

APPEAL FROM THE PROVISIONAL MONTHLY AND PROBATE COURT FOR
MARSHALL TERRITORY.

Decided May 14, 1937.

To constitute a contempt, there must be improper conduct in the presence of the court or so near thereto as to interrupt or interfere with its proceedings; or some act must be done not necessarily in the presence of the court which tends to adversely affect the administration of justice.

Appellant was convicted of contempt in the Provisional Monthly and Probate Court for Marshall Territory. On appeal to this Court, judgment *reversed*.

MR. JUSTICE GRIGSBY delivered the opinion of the Court.

This case comes up before this Court on a bill of exceptions (as set out in the petitioner's bill of exceptions), the relevant portions of which are as follow:

"That said Judge had no jurisdiction over his person there being no legal precept served on respondent now appellant, so as to give him jurisdiction to so fine him. The said judge was powerless to exercise any jurisdiction over his person; in this the said judge did err.

"That the said issue which the said Judge regarded as contempt having been passed upon him, and exception having been taken and appeal granted to the Honourable Supreme Court of Liberia, said Judge was without jurisdiction to assume to consider any part of the one and same issue, the matter in its entirety having been removed before a higher tribunal.

"Appellant therefore submits that the act of said Judge is void *ab initio*, and should therefore be vacated, the same being pregnant with errors."

The controversy between the petitioner and respondent grew out of a letter addressed to His Honor the Judge by appellant out of court, which the said Judge took to court the following day, and without any process having been issued against the said appellant, the judge did impose and levy a fine of thirty dollars on the said appellant, stating that he regarded the letter as contemptuous, the same having been written in connection with the previous contempt proceedings, referring to the mal-administration of the said Judge, the subject of another similar contempt proceeding for which appellant was fined thirty dollars in the one and the same issue now on appeal.

Judges should be careful and conservative in the use of process for contempt, as the liberty of the citizen is above the dignity of the Judge, said this Court in the case, *King v. Moore*, 2 L.L.R. 35, 2 Lib. Ann. Ser. 6 (1911). In said opinion, Mr. Justice T. McCants-Stewart, continuing further, said:

“To constitute a contempt there must be improper conduct in the presence of the court, or so near thereto as to interrupt or interfere with its proceedings; or some act must be done, not necessarily in the presence of the court, which tends to adversely affect the administration of justice.”

In this case, the letter complained of by the Judge is not found in the proceedings to give the Court a clear knowledge of what it represents, nor was its absence from the records explained by either party to the proceedings, the more so as an inspection of said letter was necessary to give the Court a legal knowledge of what position to take under the circumstances.

But in the face of the absence of the letter from the records the Court fails to see by what process of reasoning the Judge of the said Court of Marshall Territory could conclude to have control of the defendant in the absence of a writ's having been served upon him to place him under the jurisdiction of the court; nor are we impressed

from what law the Judge derived his authority for imposing a fine of thirty dollars or sixty dollars as complained of by the defendant in the court below.

A judge is vested with the responsibility of upholding the Constitution and the organic laws of this Republic, and he should not himself violate them. He is the custodian of the rights and liberties of the citizen and should not allow those rights and privileges to be trailed in the dust. He should exercise patience and forbearance and having great powers, should be especially slow to exercise the same. 2 Rev. Stat. 17, § 1126.

The fine for contempt in the opinion of this Court is illegally imposed, and it is void as the defendant was illegally brought into court by the said Judge at the time he was purported to be arrested for the letter in question.

Reversed.