

In re H. LAFAYETTE HARMON, Respondent.

CITATION FOR CONTEMPT OF COURT.

Argued January 15, 16, 21, 1935. Decided February 1, 1935.

1. Any misconduct of an attorney during the trial of a cause which tends to embarrass the administration of justice is a contempt of court.
2. When an attorney at law informs the court that a judgment debtor has surrendered to him securities in settlement of a debt due his client which he and the said client had accepted, he is estopped from claiming thereafter that said securities were not legal tender.
3. Nor can he legally request the court to have recourse to the said party, especially when he is unable to prove that the said securities had been returned to, and accepted by, the person in whose behalf he had received them.
4. A lawyer who receives money or articles of value for his client and neglects to pay them over becomes personally responsible to his client for said amount even though it cannot be shown that he has misappropriated said amount.
5. Nor will he be allowed to embarrass the administration of justice by requesting the court to compel his adversary to pay again money he had received and not paid over.

Respondent was cited for contempt by the Supreme Court in connection with his request to the Chief Justice for the issuance of a mandate to a Circuit Court Judge to enforce judgments rendered in an action of debt, *Logan v. W. D. Woodin & Co.*, in which respondent represented the corporate defendant-in-error, and in a proceeding to probate a will, *DeShields v. King*, in which respondent represented the plaintiff-in-error DeShields and which he mistakenly referred to as an action of debt by the Cavalla River Co., Ltd., successor to W. D. Woodin & Co., against the same defendant, A. D. J. King. The Court found the respondent *guilty of contempt*, but deferred sentencing until a pending criminal action against A. D. J. King, in connection with which the respondent volunteered to assist the Justice Department, was concluded.

*H. Lafayette Harmon* for respondent. *James A. Gittens*, by appointment of the Attorney General, for the Government. *Edwin A. Morgan*, *amicus curiae*.

MR. JUSTICE DIXON delivered the opinion of the Court.

These proceedings are based on a letter under date of January 29, 1934, from H. Lafayette Harmon, Esq., counsellor at law for Messrs. W. D. Woodin & Co., Ltd., to Mr. Chief Justice Grimes, presiding in chambers, for the issuance of a mandate to the Circuit Court of the Second Judicial Circuit, to enforce a judgment which had been rendered in favor of W. D. Woodin & Co., Ltd., against Jacob H. Logan; and in favor of Henry N. De-Shields, against A. D. J. King, objections to the probation of a deed, but which he erroneously styled as a judgment for debt in favor of the Cavalla River Company, Ltd., against the said A. D. J. King, another case in which he was also attorney for the said Cavalla River Company, Ltd., as successors to W. D. Woodin & Co., Ltd. The Court told him that it would not act upon a mere letter, nor would it permit more than one cause to be blended in one single application.\* Permission was given him to withdraw said letter and to file a several application instead within forty-eight hours *nunc pro tunc*. Instead of filing the several applications within the forty-eight hours allowed by the Chief Justice, he delayed their filing until March 26th when he filed the several applications which he claimed were in substantial compliance with the orders of the Chief Justice. These were returned to him with the information that he could not file on March 26th applications *nunc pro tunc* dated January 29th, when the Chief Justice had extended the privilege for forty-eight hours only.

On May 18th, Counsellor Harmon wrote a new letter complaining that the Clerk had not acted upon orders he assumed had been given by the Chief Justice to issue mandates in the several causes which he had blended in his original letter of January 29th, and which he had been ordered to withdraw.

On May 19th the Clerk was ordered to write Coun-

\* See opinion of Mr. Chief Justice Grimes in Chambers, at 170, *supra*.

sellor Harmon from the chambers of the Chief Justice, recapitulating the orders previously given with which he had not complied, and emphasizing the legal inability of the Chief Justice to act until a proper application had been filed in each case.

On May 21, 1934, Counsellor Harmon filed the several applications for the enforcement of judgments in two separate causes, one of which is one of those which has led to these proceedings, and the other, the *Cavalla River Company, Ltd., v. Alfred D. J. King*, action of debt. But it was, as already pointed out, a misrepresentation, in that no such case had ever been pending in this Court, which false representation he had also made to his clients, the Cavalla River Company, Ltd., who in turn appear to have couched it in a communication to the British Consul complaining of the incompetency of our courts to enforce judgments. This act is considered by this Court as a contempt of court, which is defined *inter alia* as any act by which: "an attorney during the trial of a cause is guilty of such misconduct as tends to embarrass the administration of justice."

In respect to the judgment of this Court, in which Logan was defendant and afterward appellant, and W. D. Woodin & Co., Ltd., were plaintiffs and appellees, after investigation by Mr. Chief Justice Grimes in chambers,\* it was brought out by evidence appearing on the face of the records that Logan had paid the amount of four hundred and fifty dollars, in a limited power of attorney, against the salary in arrears of the late John L. Dounoum, Commissioner of the Municipal District of Lower Buchanan, Grand Bassa County, which the said Dounoum had ordered transferred to W. D. Woodin & Co., Ltd., as against their judgment against Mr. Logan.

Counsellor Harmon, at this investigation, contended that although he had accepted these papers against Dounoum's arrears, yet, when his clients, W. D. Woodin

\* See opinion of Mr. Chief Justice Grimes in Chambers, at 161.

& Co., Ltd., were presented with these limited powers of attorney, they absolutely refused to accept them in settlement of their claims; and that such papers, although government obligations, are not legal tender of this country, and therefore cannot be forced on any person in settlement of a claim. He afterwards contended that W. D. Woodin & Co., Ltd., whose interest he was representing, refused to accept the limited powers of attorney, and that he, the said Counsellor Harmon, had returned them to Mr. Logan instead of Mr. Dounoum or his estate. But Logan, on the contrary, denies having received them. As Counsellor Harmon could not establish his contention by evidence of any nature whatsoever except a copy of a letter he claims to have written Logan in returning the limited powers of attorney, the Chief Justice decided to refer the question of the four hundred and fifty dollars to the Court *en banc*.

At the call of the matter for the consideration of the Bench, the Attorney General was notified to appear in the interest of the Republic in order to be *au courant* with the result of the investigation, as the subject matter bore a diplomatic aspect. J. A. Gittens, Esq., Deputy Solicitor General attached to Cape Palmas, was sent by the Attorney General to represent him.

This Court, in reviewing the records with careful attention, finds that although Counsellor Harmon contended in his argument that he did not absolutely accept the limited powers of attorney, but that he received them on the condition that he would be able to persuade his clients to accept them, yet said contention is not borne out by the records. For, from the records of the Circuit Court of Grand Bassa County, in Chambers September 12, 1932, appears the following:

"Jacob H. Logan before court upon a commitment from the Honourable Supreme Court of Liberia and upon the court's query *in re* the amount, he replied that he had arranged the amount of \$450.00 through

Honourable J. L. Dounoum, as Counsellor H. L. Harmon, representing the firm of Messrs. W. D. Woodin & Co., Ltd., had agreed to accept these claims" (meaning the limited powers of attorney), "if properly authenticated. This amount has been sent to Counsellor Harmon at Monrovia."

The minutes of the 3rd day of October, 1932, of the said court further disclose that:

"Counsellor H. L. Harmon who was in Bassa at the time then addressed the court and informed the court that Mr. Logan was arranging thru the late Mr. Dounoum for the payment of the principal of the amount due, which they were willing to accept, but he would ask the court to have Mr. Logan before court when he would be present so that Mr. Logan could arrange for the payment of costs which should be required in cash as they could not accept arrears for costs."

In November, 1932, Counsellor Harmon himself wrote the following letter to Chief Justice Johnson, now deceased, which reads thus:

"HIS HONOUR

THE CHIEF JUSTICE OF THE SUPREME COURT,  
REPUBLIC OF LIBERIA, In Session, November  
term, A. D. 1932.

"YOUR HONOUR,

"I have received information from Grand Bassa that Mr. Jacob H. Logan defendant debtor upon judgment of the Supreme Court has been taken under execution and taken before Judge Shannon who has ordered him incarcerated, awaiting an opportunity to proceed to Monrovia.

"I understand that this morning his son made certain application to the court for his release. On behalf of my client Messrs. Woodin & Company, limited, I most emphatically protest. Mr. Logan has been in communication with me, and tendered L.

P. A.'s against the late Mr. Dounoum's salary as Commissioner of the Municipal District of Buchanan amounting to \$450.00 (Four hundred and fifty dollars), being arrears for 1931. I have promised that I will accept these claims against the principal debt if he will pay the small balance of the principal sum and the cost of the court which my clients have advanced in cash. This he promised to do, but has failed.

"Under the circumstances, I feel that we have been lenient with Mr. Logan, and we most strenuously protest against Mr. Logan's release from prison unless he pays the amount as promised. As it is, my clients have made a sacrifice when they accepted limited powers of attorney for arrears for 1931, which will mean only three per cent (3%) bonds in settlement of their debt, but when considering present depressed conditions, I have induced them to meet Mr. Logan in this way, but surely the court will and ought to support us in seeing that we get the money refunded that we have spent in bringing Mr. Logan to justice in keeping with the judgment of the Supreme Court of Liberia.

"I have the honour to remain

"Yours obediently,

[Sgd.] H. LAF. HARMON,

*Solicitor & Counsellor-at-law.*

*For W. D. Woodin & Co., Ltd."*

These are the facts proved by the records submitted at the investigation conducted by Mr. Chief Justice Grimes with respect to the amount of the \$450.00.

With reference to the limited powers of attorney in question, this Court says that Mr. Harmon has not been able to prove satisfactorily his return of the said documents to Mr. Logan, although the Chief Justice gave him from the 7th of July, 1934, until the present term of Court so to do, he having at that time ordered Mr. Logan held

in custody until the difference had been paid, and the Marshal has reported to us his having collected and paid over said amount.

He is, however, allowed until the April term ensuing of this Court to produce a receipt from the Cavalla River Company, Ltd., in acquittance of said amount, as although we are satisfied that Mr. Harmon has not misappropriated said amount, it is equally clear that he has not been as careful in preserving the securities as was his duty as an attorney at law to whom they were entrusted for the benefit of his clients. He should also be required to pay the balance of the costs. For, although at the trial before this Court *en banc*, Mr. Harmon produced receipts for amounts of costs alleged to have been paid by his clients, yet, in our opinion, he is estopped from doing so at this stage inasmuch as during the hearing in the Chambers of the Chief Justice he signed an agreed bill of costs as correct, and another in dispute, in which none of said items appears. That ended the matter of accrued costs, hence he is now estopped from bringing in new items of costs after his approval of the two bills of costs aforesaid.

With respect to the matter of Alfred D. J. King's which is still pending in the Department of Justice, in reply to a communication to said department from this Court, a copy of a letter from the County Attorney of Bassa to the Attorney General was sent this Court which reads as follows:

"166/24/34.

"DEAR GENERAL:

"Your letter 1785/'34, of August 30th/34 with copies of relative correspondence received.

"In reply to same I would state that in obedience to your instructions I have requested Counsellor H. L. Harmon, Solicitor for Cavalla River Company, limited, to furnish my office with the necessary evidence to support a true indictment and conviction of Mr.

A. D. J. King; as soon as this is done I will be prepared to do the needful without delay.

"Your obedient servant,

[Sgd.] WALTER P. L. BRUMSKINE,  
*County Attorney, Grand Bassa  
County, R. L."*

"THE HONOURABLE

THE ATTORNEY GENERAL OF LIBERIA,  
MONROVIA."

This Court cannot find words sufficiently strong in which to condemn the actions of Counsellor Harmon in writing a letter dated June 17, 1932, to the late ex-Chief Justice Johnson, by virtue of which he induced him to issue a writ of possession against A. D. J. King, and which in turn led to the said A. D. J. King's writing a letter to the late Chief Justice which was manifestly improper; but which nevertheless was induced by the improper conduct of Mr. Harmon.

Nevertheless, inasmuch as the matter of A. D. J. King's remains in the Department of Justice, this Court will not now sentence Mr. Harmon for the contempt committed, but will give him an opportunity to redeem himself by the assistance he will give the Department of Justice in straightening up this matter and properly prosecuting the said A. D. J. King for the crime he is charged with having committed. The respondent in these proceedings should be ruled to pay all costs of these proceedings; and it is hereby so ordered.

*Guilty of contempt.*