

WILLIAM A. KENT, Appellant, v. REPUBLIC OF
LIBERIA, Appellee.

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

Argued April 26, 1937. Decided May 14, 1937.

Whenever the counsel for appellant appears at the bar of this Court and abandons a cause, the appeal will be dismissed, and the trial court permitted to resume jurisdiction and execute its judgment.

Appellant was convicted of the crime of arson in the Circuit Court of the First Judicial Circuit, Montserrado County. On appeal to this Court, the attorney for appellant made a statement abandoning the appeal. *Appeal dismissed.*

E. W. Williams for appellant. *The Attorney General* and *M. Dukuly* for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

At the August term, 1935, of the Circuit Court of the First Judicial Circuit, Montserrado County, in its Law Division, one William A. Kent was indicted for committing the crime of arson. Said cause came on for trial before His Honor E. A. Monger, Judge presiding by assignment, at the May term of said court, 1936. The defendant having been arraigned, pleaded not guilty to the charge, whereupon a jury was impanelled to try the issue joined by said plea, which jury, after deliberation, handed down a verdict of guilty. The appellant, defendant below, being dissatisfied with the several rulings, verdict and final judgment, excepted and appealed to this tribunal of last resort for review. At the call of the case before this Court, Counsellor E. W. Williams for

appellant arose and made the following statement before this Court, *inter alia*, to wit:

"That his client, William A. Kent, appellant in this cause, had no defense to make in support of his appeal, as there was nothing upon the face of the records before this Court, as a defense that his said client pleaded in the lower court; except where this Court thinks that he was influenced to commit the crime of arson upon hope of reward."

Questions by the Court: "Were you the lawyer for Mr. Kent when the bill of exceptions was filed and the appeal prayed for?"

Ans. "Yes, I was the lawyer."

Ques. "At the time when you filed the bill of exceptions and appealed, did you know that the base of this was weak as set up in the first part of your brief before us, and that appellant had practically no defense to be submitted to this Court?"

Ans. "It is from the trial and records of the case that we get our knowledge what the facts are in the case. At the time of making the bill of exceptions, as you know I took it from the records of the case and after codifying it, I said then to myself, we haven't got much in this case. However, since the appeal had been taken and the bill of exceptions filed, I decided not to argue it. Hence I abandoned the case during the November term of this Court, 1936, and I am only here now, because I don't want to go contrary to the orders of this Court."

Ques. "When did you find out that there was no basis in this case, before the last term or before this one?"

Ans. "Before the last term, as I said when I got through with the bill of exceptions."

Question by Mr. Justice Dossen: "Do you give this Court to understand that you reaffirm your former statement made at the last term, in that your client has



no case before this Court, and therefore you abandon further defense?

Ans. "(1) Where it says that the facts stick out with that degree of clearness as do the horns on the head of a bull; (2) That the line bisecting the vertical angle of the triangle splits the basis into segments equivalent to the adjacent sides. Gentlemen, I abandon further defense, and submitted."

Counsellor M. Dukuly speaking for and on behalf of appellee respectfully requested the Court to affirm the judgment of the lower court and submitted. See Court's minutes of April 26, 1937.

To "abandon" is: "To relinquish; forsake; give up. The word includes the intention. And the external act by which it is carried into effect." 1 B.L.D., "Abandon."

The Court accepts the announcement made by the counsel for appellant, it being a right vouchsafed to him under the law, dismisses the case, and permits the trial court to resume jurisdiction and execute its judgment; and it is hereby so ordered.

Appeal dismissed.

MR. CHIEF JUSTICE GRIMES, dissenting.

As will be observed when, a few minutes hence, the judgment in this case shall have been read, I have withheld my signature therefrom; and the reasons therefor I must now proceed to place on record.

Mr. E. W. Williams is the Defense Counsel for Montserrado County, appointed and paid by the Government of Liberia to represent indigent persons who desire to be defended *in forma pauperis*. It was in such capacity that he defended the present appellant in the trial court, and pleaded the case before this Court for review.

Although when at our last term the said case was first called at this bar, and we commenced the reading of the record, Mr. Williams appeared and stated that he was no longer defending the appellant, and that he had so in-

formed him, he did not then announce his abandonment of the defense, as he did at this term; but his refusal was based on other reasons.

We then ordered appellant informed, and notified him that the case would be continued until this term of court so as to give him an opportunity to appear and defend himself in person should he desire so to do.

When on the 26th day of April, 1937, during the present term the case was again called, Mr. Williams appeared at this bar without appellant and abandoned the defense. We then felt that we had gone our limit as the appellant Kent had not appeared here although cited, and we did not feel that he, having been notified, we could postpone the matter further.

However, on the 29th day of April, 1937, he, the said appellant, filed an application which is word for word as follows:

“Appellant respectfully showeth unto Your Honours, and this Honourable Court the following facts, to wit:

“1. That he is the appellant in the above entitled cause.

“2. That it has come to his knowledge that Counsellor E. W. Williams has abandoned his defence in the Supreme Court.

“3. It appears that his interest has been bartered and sacrificed as a means of compromise between the said Counsellor Williams and the Attorney General, who it is reported, held up his pay as means of reprisal for the representation of the case made by him in the lower court.

“4. Counsellor Williams informed your humble servant that he need not be present at the Supreme Court, when the case would be heard as he would be there and defend his interest.

“5. Your humble servant has informed Counsellor Williams that he was making arrangements to secure

the service of competent counsellor to represent him in the Supreme Court.

"6. It is with deception that the said Counsellor has acted in telling your humble servant not to be present, that he would represent his interest, and has without the knowledge, will or consent of your humble servant abandoned his defence.

"7. Your humble servant feels that the conduct of the said Counsellor is unbecoming a gentleman and a lawyer and that Your Honours in view of the fact the said Counsellor is an employee of the Government under the Department of Justice and the case now pending before this Honourable Court is one in which the head of the Department of Justice in the person of the Attorney General Monroe Phelps is greatly involved, Your Honours will in keeping with justice, equity and right allow an opportunity to your humble servant to secure a Counsellor to represent his cause. And that the abandonment made by the said Counsellor Williams has not been done in my interest. As he has not been authorized to do so.

"In view of the foregoing facts, your humble servant prays Your Honours will continue this cause till such time as your humble servant will continue to find a Counsellor to represent his cause, and grant all other such relief unto him as the nature of the case requires.

"Respectfully submitted,
[Sgd.] WILLIAM A. KENT,
Appellant."

Certainly we do not know whether or not any statement in said sworn application of appellant's is true; but it was because of that uncertainty that I urged my colleagues to have the allegations therein contained investigated by our Bar Committee, the forum charged with the duty of investigating all complaints against members of this bar.

Had the majority of the members of the bench shared

my view and ordered the case suspended while ordering such an investigation, upon the conclusion thereof had the committee reported that the allegations made in the application were untrue we would have been able, without any qualms of conscience, to dismiss Mr. Kent's petition and affirm the judgment of the court below. But the majority of us not having agreed to order any such investigation, the allegations of appellant that his rights have been bartered away; that it was through the alleged false promises of the defense attorney that he need not be present here when ordered by us to do so, as the said Counsellor Williams would be here and defend his interests, hence he was not present when the case was heard, are allegations which I cannot say are true or untrue. In my opinion it is exceedingly grave for anyone to make such charges against any member of our honorable profession, especially before this, the highest Court of justice in our country; and I think that said charges should be carefully investigated in the interest of the bar as a whole, and particularly of all whom it may concern. And because I have not been satisfied that said charges are without foundation my conscience has not allowed me to affix my signature at this time to a judgment against appellant, and hence these my reasons for dissent.