

KAIZER A. A. KNOWLDEN, Appellant, v. REPUBLIC OF LIBERIA, Appellee.

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

Argued March 10, 11, 1947. Decided May 9, 1947.

1. One is not liable for the commission of an assault and battery who strikes in defense of himself, his property, or his dependents. When such person feels himself in imminent danger of his person he may strike in defense of same.
2. In order to sustain a conviction, guilt of the accused must be proved beyond a rational doubt.

On appeal from conviction of assault and battery,
judgment reversed.

B. G. Freeman for appellant. *The Solicitor General*
for appellee.

MR. JUSTICE SHANNON delivered the opinion of the
Court.

By a grand jury of Montserrado County and before His Honor Edward J. Summerville, Judge presiding by assignment over the Circuit Court for the First Judicial Circuit, February term, 1946, appellant Kaizer A. A. Knowlden was indicted on the charge of assault and battery with intent to do grievous bodily harm on the body of one Lottie Liberty. Trial was commenced at the same term of court and in the same year before the said judge. It is necessary to say that the said appellant was indicted along with two of his sisters, Josephine Knowlden and Georgia Knowlden, and they all entered a plea of not guilty.

The trial resulted in the acquittal of the two sisters and the conviction of Kaizer A. A. Knowlden with a sentence of a fine of fifty dollars or imprisonment in the common

jail of the county for a time sufficient to liquidate said fine at the rate of twelve dollars per month; and it is from this judgment that the said Kaizer A. A. Knowlden, appellant, has prayed an appeal to this Court of *dernier ressort* for the review of said trial.

The indictment charges that:

“On the 26th day of August, A.D. 1945, in the City of Monrovia, County and Republic aforesaid, K. A. A. Knowlden, Josephine Knowlden and Georgia Knowlden, defendants aforesaid and there being with force and arms, in and upon the body of Lottie L. Liberty did make an assault; with their said defendants' fist, hands, at to and against the body of her the said Lottie L. Liberty, unlawfully, wilfully, violently, and maliciously, did strike, beat, bruise, batter, cut, illtreat and wound the mouth, nose, face and other parts of the body of her, the said Lottie L. Liberty; thereby inflicting corporal hurt and wound and causing her the said Lottie L. Liberty grievous Bodily Harm; with intent in so doing unlawfully, wilfully, violently and maliciously to do grievous bodily harm; contrary to the form, force and effect of the statute laws of Liberia in such cases made and provided and against the Peace and Dignity of this Republic.”

From the records as certified to us from the court below it appears that there were only two witnesses who testified for the prosecution, the private prosecutrix, Lottie L. Liberty, and Robert Bright. The following is culled from the testimony of the said Lottie L. Liberty: Her brother, Nathaniel Liberty, got a place to live from the Knowldens under a written contract, having his wife with him at the time and, not being satisfied with the way his sister, Lottie Liberty, the private prosecutrix, was going, he suggested that she come and live with them in the Knowldens' place. The Knowldens were, of course, living in the same home. Many times when her brother, who is a lieutenant in the Liberian Frontier Force, went

to work, appellant Knowlden picked at Lieutenant Liberty's wife. They would have minor arguments and Knowlden would say that he would wait until Lieutenant Liberty returned from work, but each time when Lieutenant Liberty went into the palaver appellant Knowlden was wrong and asked Mrs. Liberty's pardon and tried to excuse himself by saying that he, Knowlden, was fiery and that Mrs. Liberty must not mind him when he became vexed and acted like that. Continuing, Lottie L. Liberty gave the following testimony:

"So my brother got fed up and vex and found a place to move, and Knowlden asked my brother why he moved as his time was not up, that is to say, Mr. Kaizer Knowlden. So my brother said that he did not want a continual misunderstanding between him and his wife, so he would move, but would give me one of the rooms downstairs and the room upstairs and the room upstairs he could have them with the rent already paid, to which Knowlden agreed. My brother gave me one boy and one girl to stay with me. Kaizer Knowlden did not have anybody to serve him, as his two sisters had not then moved in the house, and sometimes when he would sleep out in the night, the next morning he would ask me to let my boy sweep his room. This resulted into a quarrel between him and me and we had several quarrels at different times. On the night of the Sunday he beat me, Mr. Knowlden arose early that morning and said to his sister Josephine, one of the defendants, that everybody must clean up this house. Then my boy got afraid and began to sweep Mr. Knowlden's apartment. I came out of the room and said to my boy, 'Whom are you working for, Mr. Knowlden or me?' And I told him to go back to the kitchen and do his cooking, and because of this Mr. Knowlden began to abuse me, saying that I was going with soldiers and meddling in my business. But I told him that he could not talk about me because he

had four sisters who have been staying at the airport, and he continued to abuse me and I went in my room. Mr. Knowlden began to type a letter to my brother and, whilst he was typing it, I sent my boy to call my brother. He came and we met at the head of the steps coming in the house and I related the whole thing to him, and in the meantime Knowlden sent the letter and to him touching same matter. My brother read the letter and said to me that I should tell Mr. Knowlden that he would answer him but advised me not to say anything to Mr. Knowlden even if he cursed me; and then I went over to my friend, Martha Stubblefield, and stayed there. That evening Elfreda Mars came over there and told me that we should get ready to go [to] the movie; so while coming into the Mr. Knowlden's house where I was staying, he said to his sister Josephine that after six o'clock the door of the house must be kept closed. I dressed and went out to the movie with Elfreda, and after the movie Elfreda went on home and I passed around the back door of the house and called my little boy to open the door, whereupon Knowlden's other sister, Georgia, shouted down from upstairs and said, 'Lottie, will you not give your boy a name? Will you always call him "You boy"?' Then I said to her, 'It is none of your business,' and went into my room. My boy said to me, 'Ma, your brother sent for you saying that you must go.' Then I came out of the back door and went to my brother's place, but my sister-in-law told me that my brother had been out since two o'clock and had not returned. I told [her] to tell him when [he] came that I had [been] there, and went to my stopping place, where I called my boy and he opened the door and I went in my room, took off my clothes, put on my nightgown, got into bed and lied down. Mr. Knowlden, after waiting a good while, said to me: 'What damn nonsense you have been talking today about

Nyonneh Wreh? You will take it back, and open this damn door.' Then I told him that I had gone to bed, but he insisted that I open 'the goddamn door,' and then shouted to his sisters upstairs, saying 'Josephine, I am ready; Georgia, I am ready.' I took the dress which had been hanging behind the door in my room and slipped it over my nightgown and then opened the door, and when I opened the door, Mr. Knowlden struck me and I fell back, whereupon the two sisters, Josephine and Georgia, came running downstairs and rushed into my room. I thought they were coming to take Mr. Knowlden away, but, instead, they caught me by both hands, wrung them in the back and held me, at which time Mr. Knowlden struck me the second time, burst my lip, and my teeth began to shake and the blood began to rush out of my mouth and nose. Then Georgia [was] afraid and said, 'Oh, brother, you will get into trouble,' and caught him and tried to take him away, but he told her to leave him alone and let him kill this bitch. She succeeded in carrying [him] away. I ran out of the house and was on my way to tell my brother, but stopped at the police station and reported the matter."

In addition to this testimony of the private prosecutrix we have only that of witness Robert Bright in corroboration, besides the medical certificate of Dr. Louis R. Middleton and the dress which was identified as having been the one which the said private prosecutrix wore at the time she was beaten by the defendants. This testimony of witness Bright does not attempt to show that he was present at the time Lottie L. Liberty claimed the assault and battery was committed. Rather this witness shows that on one Sunday evening in August, 1945, whilst returning from a nocturnal perambulation, to use his words, he was hailed by Lieutenant Liberty, the brother of Lottie L. Liberty, the private prosecutrix, just as he was reaching the junction of Carey and Randall Streets; that this hail-

ing was done from the veranda of Kaizer A. A. Knowlden's house; that when he got to the scene he met Lottie L. Liberty with her brother and a policeman; and that Lieutenant Liberty asked him to look his sister over, which he did to the extent of discovering that she had been battered and that this had resulted in a cut lower lip and a bruised upper one, in one of her front teeth shaking, in bleeding slightly from the nostrils, and in her dress being torn with blood stains on it; that Lieutenant Liberty explained that the condition of his sister was the result of a beating which Knowlden, aided by his two sisters, had inflicted on her; that Lieutenant Liberty tried to get Knowlden to open the door in order to ascertain the cause of his act, but Knowlden refused; that Lieutenant Liberty was greatly annoyed and fearing that Lieutenant Liberty might resort to violence when entering the home, he, witness Bright, suggested that the matter be referred to the inspector of police, who was not living very far from the place; that Lieutenant Liberty accepted the suggestion and they both called on the inspector of police and explained the matter to him, and the said inspector readily agreed to accompany them to Justice Dennis for a writ of arrest, which was issued and turned over to Inspector Davies for service; that the writ was not served that night because Knowlden refused to open the door to allow the officer to enter; and that because of the impasse created each went to his respective home.

Whilst the record does not show why Lieutenant Liberty and Inspector Davies were not asked to testify in the matter, since it appears to us that their testimony might have greatly served as a contributing link in the chain of evidence for the prosecution, we do not hesitate to say that an apparent *prima facie* case was made for the prosecution when the evidence of Lottie L. Liberty is considered along with that of Robert Bright. Hence it was incumbent upon the defense to break it down. Now we are to see how far the defense succeeded in this effort;

but since the two sisters, Georgia and Josephine, were duly acquitted by the verdict of the petit jury we will not deal much with the evidence brought out either against or for them during the trial except where such evidence cannot be conveniently separated from that relating to the appellant.

The witnesses who testified for the defendant, now appellant, Knowlden, besides himself, were Josephine Knowlden, Nyonneh Wreh, Anna, and Dr. John B. Titus. The evidence of witnesses Josephine Knowlden, Nyonneh Wreh, and Anna tended to show, in corroboration of Knowlden's testimony, that at the time of the alleged assault and battery appellant Knowlden was recovering from a bad attack of rheumatism and was in a practically helpless and physically unfit condition, and that Lottie L. Liberty, private prosecutrix, sought to take advantage of this and became the aggressor; and that it was after she had twice struck and once bitten the appellant that he found himself compelled in self-defense to give her a back slap which, the said witnesses claim, was responsible for the injuries that were found on the body of the private prosecutrix.

There is a principle of criminal law that no one is liable for the commission of assault and battery who strikes in defense of himself, his property or his dependents; and that when such person feels himself in imminent danger of his person, he may strike in defense of same and the test of such danger is left to his belief and judgment. 2 R.C.L. §§ 27-32, at 548 (1914); 6 C.J.S. § 92, at 944 (1937); 5 C.J. §§ 234-35, at 746 (1916); 3 Bouvier, Law Dictionary 3037 (Rawle's 3d rev. 1914); cf. *Fah Socho v. Republic*, 1 L.L.R. 359 (1900). Evidence of this may be interposed under a plea of "not guilty" in criminal prosecution. 3 Bouvier, Law Dictionary 2365.

Whilst it is true that the evidence of the defense in some phases appears to have been contrived since it does not appear to us readily acceptable that all that transpired

between Lottie L. Liberty and the appellant was within the hearing and sight of witnesses Josephine Knowlden, Nyonneh Wreh, and Anna so as to have enabled them to testify in detail with respect to said events, nevertheless we do not hesitate to say that in our opinion said evidence certainly created a doubt as to the true situation. Since a conviction must be based not upon the preponderance of the evidence but rather upon evidence that proves defendant's guilt beyond a rational doubt, the benefit of this doubt must be given, as is provided by law, to the defendant. *Dunn v. Republic*, 1 L.L.R. 401 (1903); *Dyson v. Republic*, 1 L.L.R. 481 (1906).

It is therefore our opinion that the judgment of the court below should be reversed and the defendant, now appellant, ordered discharged without day from further answering this charge. And it is hereby so ordered.

Reversed.