

NEAYOU, Alias PAHMAN, Principal, and NY-  
AUGBE, Accessory before the Fact, Appellants, v.  
REPUBLIC OF LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,  
MARYLAND COUNTY.

Argued November, 1937. Decided December 31, 1937.

A judgment of conviction for murder will be reversed if an essential averment as to "mortal wounds" is absent from the indictment and if the records on appeal do not show that the autopsy on the deceased was performed by a medical expert.

The appellant Pahman was convicted of the crime of murder in the Circuit Court of the Fourth Judicial Circuit and appeals to this Court. Counsel for the appellee, the Republic of Liberia, has moved that the case be remanded for a new trial on the ground that the indictment charging appellant with the crime was defective. *Judgment reversed*, and prisoner released.

————— for appellant. *M. Dukuly*, Revenue Solicitor, for appellee.

MR. JUSTICE GRIGSBY delivered the opinion of the Court.

This case is before this Court upon exceptions taken to the several rulings and final judgment of His Honor Nete-Sie Brownell presiding over the Fourth Judicial Circuit Court by assignment, in a case of murder now before us.

During the trial, Counsellor Momolu Dukuly for the appellee filed a motion as follows:

"By inspection of the records in this case, it does appear that an essential averment namely Mortal Wounds was not charged in the indictment now under review. Moreover, there seems to be no statutory form of an indictment for accessory to the capital

crime of murder. In view of the facts and official information communicated to the Department of Justice announcing the death of Nyaugbe, accessory before the fact, the prosecution most respectfully requests this Honourable tribunal of last resort to remand this case for a new trial so that the principal Neayou should have a valid indictment for the capital crime of murder alleged against him. According to section 7 of our Constitution, 'No person shall be held to answer for a capital or infamous crime except in cases arising in the army or navy, and petty offenses, unless upon presentment by Grand Jury.' . . . Presentment within the meaning of the Constitution means a valid indictment making a definite charge of the commission of an offence punishable by law.

"Respectfully submitted,  
[Sgd.] M. DUKULY,  
*Revenue Solicitor,*  
Counsel for Appellee."

The Court sustained said motion after a careful inspection of the records showed that:

- (1) The cause of death was not self-evident but had to be discovered by an autopsy.
- (2) That said autopsy was not performed by a medical expert nor any one making pretension so to be.

This Court is of the opinion that a certificate of said examination should have formed a part of the records, but from a perusal thereof it is absent, which disables this Court from declaring with certainty whether the examination was performed by a medical expert or not; and the Revenue Solicitor representing the Government's interest in this case having declared that the indictment is devoid of certain art words, this Court is of the opinion that the said indictment is greatly defective. The judgment of the court below is therefore reversed and prisoners are released from prison, and it is so ordered.

*Reversed.*