

absence of any record to show that the appellant made an effort to have the court suspend the rule, as improper as it may have been to do so in the face of objections properly taken, I am the more forcefully persuaded of the correctness of my position in dissenting from my colleagues.

Under these circumstances, as much as I would like the issues submitted in the appeal to be heard and disposed of and filed, I am of the opinion that the ruling of the trial judge in refusing to entertain the motion for a new trial upon the grounds in the objections should be upheld and sustained.

PAYE, Appellant, v. REPUBLIC OF LIBERIA,
Appellee.

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

Argued March 8, 15, 1948. Decided April 30, 1948.

1. Prima facie evidence of fact is in law sufficient to establish the fact, unless rebutted.
2. Where a crime has been committed, flight is *in itself* an offense against the law and carries with it strong presumption of guilt.

On appeal from conviction of murder, *judgment affirmed.*

Samuel C. M. Watkins and *T. Gyibli Collins* for appellant. *D. Bartholomew Cooper*, Solicitor General, for appellee.

MR. JUSTICE RUSSELL delivered the opinion of the Court.

This case has come up before us on appeal from the criminal assizes of the Circuit Court for the First Judicial Circuit, Montserrado County, November term, 1946.

The facts in the case, as culled from the records sent hither, are as follows:

On the night of October 3, 1946, in the settlement of White Plains, Paye, appellant in these proceedings and defendant below, having illegally and without the consent of the owner, possessed himself of a shotgun belonging to one Stephens, shot and killed Fahn Ballah, the chief of the village, and one Dahn, who also lived in the vicinity, and thereafter fled into the bush.

At the trial the prosecution produced four witnesses whose evidence showed that appellant did shoot and kill

Fahn Ballah and Dahn at the time and place charged in the indictment. After the prosecution had put in its evidence, the defense gave notice that in view of the fact that the prosecution had failed to make out a *prima facie* case of murder as charged in the indictment the defense waived production of evidence. After arguments the case was submitted to the jury which brought in a verdict of guilty against the defendant, to which verdict and final judgment based thereon seasonable exceptions were taken and appeal announced and granted to this Court of last resort.

One of the leading legal authorities has laid down the principle that "*prima facie* evidence of fact is in law sufficient to establish the fact, unless rebutted. . . ." 3 Bouvier, Law Dictionary *prima facie* 2683 (Rawle's 3d rev. 1914).

Witness Benjamin Johnson in his testimony said that he saw Paye with the gun running away from the scene immediately after the commission of the crime. In his direct examination, said witness further testified as follows:

"Q. If you had any conversation with the defendant, in the presence of one Quelleh and others.

"A. I asked him, why did he kill these two men. He said, 'As to Fahn Ballah, I did not mean to kill him, but when I heard him telling people to catch me, I meant to only frighten the crowd, but through that he got killed. As to Dahn, I meant to kill him, because he was the man who is running with my girl friend and they are rascals. I meant to kill Penny and Willie Boy. Dahn had taken my girl friend and given her to Willie Boy, his brother. Is why I killed him. I would kill more since I did not get Penny, but now I am captured.'"

In the face of such damning testimony the defendant brought no witnesses to testify in his behalf, and did not even take the stand with a view of refuting what the

prosecution had placed on record against him. The records also show that appellant fled immediately after the commission of these atrocious crimes and successfully evaded apprehension for eight days.

“For flight also . . . whether the person be found guilty or acquitted, if the jury find flight the party shall forfeit his goods and chattels’ [quoting the fourth book of Blackstone at 387]. The very flight is an offence carrying with it strong presumption of guilt and is at least an endeavor to elude and stifle the course prescribed by the law.” *Freeman v. Republic*, 1 L.L.R. 306, 308 (1897).

After due consideration of the evidence and after applying the principles of law controlling the case, we have no alternative but to affirm the judgment of the lower court; and it is hereby so ordered.

Affirmed.

CASES ADJUDGED
IN THE
SUPREME COURT OF THE
REPUBLIC OF LIBERIA
AT
OCTOBER TERM, 1948.