

MARTHA E. PROUT, Appellant,
v. JESSE R. COOPER, Appellee.

MOTION FOR CONTINUANCE.

Decided January 22, 1937.

Appellant moved for continuance of her appeal on the grounds of absence and unpreparedness of her counsel. *Motion denied.*

P. Gbe Wolo for appellant. *Anthony Barclay* for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

Before the entitled cause could be reached on the trial docket of this Court, appellant through her counsel entered upon our motion calendar, a motion for continuance, which reads, *inter alia*:

“Because appellant says that her leading lawyer, Counsellor H. L. Harmon, who has in his possession all the documents and other facts material and necessary to establish her claim and prove her case is away from the City and her other lawyer, Counsellor P. Gbe Wolo, has not had sufficient time and opportunity to study the case, so as to be in a position to defend appellant as the premises require.”

Although absence of counsel as in the event of the illness of counsel is good ground for continuance, as decided by this court in the case *Burney v. Jantzen*, 4 L.L.R. 322, 2 Lib. New Ann. Ser. 162, this is not an analogous case. For, on the 22nd of December last Counsellor Harmon was, by a judgment of this Court, suspended from the practice of law within this Republic for a period of five calendar years certain. That judgment created a dis-

ability to all intents and purposes of a permanent character for him to proceed further with this case, and this disability could not have been but immediately known to appellant whose other attorney Counsellor Wolo was also the attorney for Counsellor Harmon in the proceedings before this Court which ended in his suspension.

Upon an inspection of the records filed in this Court, we find further, that the contention of Counsellor Wolo is not tenable because he was one of the active Counsellors in the case in the lower court from its beginning, as well as in an application for mandamus filed in the chambers of Mr. Justice Grigsby.

Another matter to which we must call attention, is that the case is not here for trial, but for review, and hence the allegation that the pleadings and other documents are in the hands of Mr. Harmon is far-fetched. For Counsellor Wolo should remember that we are bound exclusively by the record. If the suspended Counsellor Harmon had any documents vital to the case they are presumed to have been included in the copy of the record sent hither for our review; if they have not been so included the omission cannot be remedied now.

Having thus very carefully gone into the reasons assigned by appellant in her motion for continuance and the records in the case and law controlling same, we are of the opinion that said motion is not well founded in law, and should not receive the favorable consideration of this Court; therefore, the motion should be denied, with costs thereof against the appellant and the case heard so soon as it shall have been reached on our trial docket; and it is so ordered.

Denied.