

Case No. I.

J. DOSSEN RICHARDS, Attorney-at-Law, Appellant,
v. REPUBLIC OF LIBERIA, Appellee.

Case No. II.

SAMUEL B. COLE, Attorney-at-Law, Appellant, v.
REPUBLIC OF LIBERIA, Appellee.

CONTEMPT PROCEEDINGS.

Argued April 13, 14, 1948. Decided April 30, 1948.

1. A certain respect due to a judge of a court must always be demanded and expected, and the dignity and prestige of a judge of a court also must be protected and conserved.
2. In return the court must show mutual respect to parties litigant and more so to practicing lawyers who are also officers and arms of the court.
3. Since it appears unlikely that a practicing attorney would have named a trial judge as party to a habeas corpus proceeding as the person in whose custody the prisoner is and that judge to whom such a petition was offered would pass such a petition, in such circumstances the trial judge ought not to have depended solely upon unsupported verbal representations in instituting contempt proceedings.

Appellants, attorneys for a defendant in a criminal prosecution before Circuit Judge Monroe Phelps, appealed from rulings adjudging them in contempt of court for their conduct in connection with the case. On appeal, *judgments reversed*.

J. Dossen Richards for himself in Case No. I. *Samuel B. Cole* for himself in Case No. II. *T. Gyibli Collins* for appellee.

MR. JUSTICE SHANNON delivered the opinion of the Court.

According to the records certified to this Court, these two appellants, both of whom are attorneys at law, were representing one Abibu Kebeh in a prosecution for em-

bezzlement before the Circuit Court for the First Judicial Circuit in a trial before His Honor Monroe Phelps, circuit judge presiding; and it is out of this trial that these cases of contempt grew.

Appellant Richards is charged with having issued an affidavit in a proceeding growing out of the same embezzlement trial and with having sworn to facts which were false and untrue and which tended to impugn the credibility of the trial court's records, and with swearing to other facts which have a tendency to impute to the court unfairness and lack of fair play. Appellant Cole is also charged with having on August 30, 1947,

“issued and filed with Circuit Judge Summerville a complaint in Habeas Corpus against Circuit Judge Phelps, which caused Circuit Judge Summerville to issue an order on the Clerk of the first judicial circuit, ordering him to issue process against Circuit Judge Phelps to produce the body of one Abibu Kebeh, committed to prison by the said Circuit Judge Monroe Phelps, with intent in so doing to infringe upon the authority of the Court and cause a judge of concurrent jurisdiction to investigate the conduct of the trial judge and to place a check upon his power, and thereby bring the judiciary into public ridicule and contempt.”

Appellant Richards, in his submission to the Court by way of showing cause why he should not be held in contempt, said that he admitted making and filing the affidavit to which reference was made in the proceedings but that the conclusions of the trial judge upon which the proceedings in contempt were instituted were incorrect.

Appellant Cole, in his own defense, submitted that he denied having issued and filed, or caused to be issued, the habeas corpus. However, he admitted that he contemplated taking such steps as would relieve his client Abibu Kebeh from the unfortunate situation in which he had found him as a result of what he considered the unfair and injudicious attitude of the trial judge in re-

fusing them an opportunity to enter their exceptions to his judgment which ordered Abibu Kebeh's imprisonment despite their repeated applications; and that, in his opinion, which he submitted for the trial judge to pass upon, an attorney should not be held in contempt for considering some method of legal procedure for adoption which would bring his client the desired end of substantial justice.

What we say now is also applicable to the other case of contempt to be decided today which is on appeal from a judgment of His Honor Judge Phelps and in which Counsellor O. Natty B. Davis and Mary Anderson are the appellants. [In re *Davis and Anderson*, 10 L.L.R. 6.]

"The liberty of a citizen is above the majesty of the law," should be a maxim which not even the judges should overlook, and, following in this trend, I quote from an opinion of this Court given by the Justice presiding in chambers on March 31, 1948, in a mandamus proceedings against Judge Phelps at the instance of the same Abibu Kebeh:

"The conservation of the constitutional and other legal rights of parties litigant should be a cardinal principle in the administration of justice and it is consistent with this principle that we seek to protect, secure and defend these rights rather than appear to be making efforts to deprive or dispossess parties of them. An effort towards this latter course should never be encouraged and defended."

There is a certain respect due to a judge of a court which must always be demanded and expected, and the dignity and prestige of a judge of a court also must be protected and conserved. In order to demand this respect or protect this dignity and prestige the court must show mutual respect to parties litigant, and more so to practicing lawyers who are also officers and arms of the court.

In view of the ruling in chambers in the matter of man-

damus growing out of the same embezzlement case against Abibu Kebeh, which ruling has been accepted, we feel no hesitancy in saying that substantially the facts shown in the affidavit of appellant Richards were proven at the hearing on the mandamus proceeding, and since there is no apparent lack of respect for the judge in said affidavit for which said attorney could legally be held in contempt, we are unwilling to confirm the conclusions of the trial judge in this matter.

In the matter of appellant Cole there is not sufficient proof that he issued and filed the habeas corpus before Judge Summerville and against Judge Phelps, since the testimony of the clerk of the court, Mr. Parker, in this respect is not definite and positive. *En passant*, we desire to say that it does not appear to us sound that an attorney at law who considered his client illegally and unjustly imprisoned by an order of a judge of a court of record would, in resorting to habeas corpus to effect the release of his client, make the trial judge a party to the proceedings as the person or officer in whose custody the prisoner is; and we doubt that even if the attorney indifferently had adopted such a course the judge before whom the petition was submitted would also indifferently pass upon it in that light; and so to us it appears that with these surrounding circumstances the trial judge ought not to have depended solely upon unsupported verbal representations to institute the proceedings for contempt.

Furthermore, there are certain privileges which an attorney has in the defense and protection of his client's rights which should not be unduly and wantonly curbed by a judge.

In view of the above we are reversing the judgments against these two appellants and hereby order their discharge without day from further answering in these proceedings; and it is hereby so ordered.

Reversed.