

CASES ADJUDGED
IN THE
SUPREME COURT OF THE
REPUBLIC OF LIBERIA

AT
APRIL TERM, 1937.

THE SECRETARY OF STATE OF LIBERIA, Re-
lator, *v.* N. H. GIBSON, Counsellor-at-law, Monrovia,
Liberia, Respondent.

REVIEW OF SUSPENSION OF COUNSELLOR BY BAR COMMITTEE.

Argued April 6, 1937. Decided April 30, 1937.

A lawyer who receives money to perform a duty for a client which duty he neglects, may be punished for unprofessional conduct even though criminal conversion of said money may not have been proven.

Respondent was suspended from practice of law by Bar Committee of Montserrado County. On review by this Court, *suspension sustained and modified.*

The Local Bar Committee of Montserrado County for relator. *N. H. Gibson* for himself.

MR. JUSTICE GRIGSBY delivered the opinion of the Court.

The matter of unprofessional conduct of Counsellor N. H. Gibson of the City of Monrovia originated with the filing of a complaint, sent to the Bar Committee of Montserrado County, by His Excellency the Secretary of State, on June 3, 1936, which is as follows:

"June 3rd, 1936.

"MR. COUNTY ATTORNEY:

"In keeping with Chapter 3, sub-section (d) of section 4 of the Acts of Legislature, passed and approved at its Extraordinary Session of 1928, I have pleasure in transmitting to you the enclosed dossier touching Counsellor N. H. Gibson's indebtedness to Messrs. Adams & Adams of Pretoria, South Africa.

"As you will discover from the enclosures, the Department's intervention was requested by the British Consul General to assist him in recovering the amount of £3. 4. 2 from Counsellor Gibson, and I may add for your information, that our kind endeavours have been abortive. Therefore, His Excellency the Secretary of State has directed me to refer the said matter to you in keeping with the Act above cited, for the attention of the Bar Committee.

"With sentiments of respect,

Yours very faithfully,

[Sgd.] JOHN GRIGSBY

"MR. R.F.D. SMALLWOOD,
COUNTY ATTORNEY FOR MONTSERRADO COUNTY,
AND CHAIRMAN BAR COMMITTEE,
MONROVIA."

The dossier referred to contained copies of correspondence marked "A," "B," "C," "D," "E," "F," "G," and "H." A meeting of said Committee was thereafter called on June 10, 1926, when the correspondence, the subject of these proceedings, was carefully considered. The letter from Messrs. Adams & Adams to His Britannic Majesty's Consul General at Monrovia reads as follows:

"ADAMS & ADAMS
Solicitors Notaries & Conveyancers
Patent & Trade Mark Attorneys
Pretoria.

"2nd December, 1935.

"HIS BRITANNIC MAJESTY'S CONSUL GENERAL,
AT THE BRITISH CONSULATE GENERAL,
MONROVIA, LIBERIA.

"Our Ref. M3589.

"DEAR SIR,

"In re N. H. Gibson—Counsellor-at-law
Recovery of Money.

"In October 1933, we were instructed by an American firm, Messrs. Pennie, Davis, Marvin & Edmonds of New York, to renew a Trade Mark registration in Liberia in the name of the American Tobacco Company, the mark consisting of the words 'Lucky Strike' and being registered under No. 181811.

"The matter being urgent we communicated by cable and by Air Mail with N. H. Gibson, Counsellor-at-Law, of 347 Broad Street, Monrovia, instructing him to renew the registration and sending him a draft for £3.4.2. From that day to this we have heard nothing from Mr. N. H. Gibson.

"After sending several reminders of a most urgent nature and still receiving no reply, we ultimately wrote to the Chief of the Bureau of Trade Marks and Patents in Monrovia, from whom we ultimately elicited a response dated the 31st August 1934 and reading as follows:

"With reference to the inquiry of your letters of the 23rd April and 20th July, respectively, I have the honour to inform you that on receipt of your letter of the 23rd April, I transmitted a copy to Counsellor N. H. Gibson for his attention, to which he has not yet given us the courtesy of a reply neither

has there been any application to the Bureau for the renewal of the Trade Mark in question."

"We wrote further the Chief of the Bureau of Trade Marks and Patents, Monrovia, but have heard nothing further from him.

"Ultimately we were fortunate enough to get into touch with a certain Mr. William E. Dennis of Box 76, Monrovia, through whose good offices we have at last succeeded in obtaining the renewal of our clients' registration.

"Mr. Dennis, we are glad to say, has had the courtesy to reply to all our various letters, and as we have mentioned has secured renewal of the registration, but he has not replied to a question we put to him as far back as the 5th December, and which we repeated in subsequent letters, namely as to whether any action at all could be taken against Mr. N. H. Gibson, either criminal or civil, and whether there is any likelihood of our recovering from Mr. Gibson the amount of the draft we remitted two years ago.

"We are prompted to write you in this matter as you may be able to suggest some method of proceeding against Mr. Gibson, or you may be able to institute enquiries through appropriate channels in Monrovia, to ascertain what steps the Department of State concerned has taken or proposes taking, and whether Mr. Gibson is still permitted to practice.

"We may say that we suggested to our New York correspondents that as the United States is responsible for the existence of the Republic of Liberia, and as their clients are an American corporation, they should approach the American Consul in Monrovia. Our correspondents and their clients, however, took the attitude that it was purely our concern, as we had in the first place selected Mr. N. H. Gibson as our representative in Monrovia.

"If necessary we could send you copies of the various

letters we addressed to the Bureau of Trade Marks at Monrovia, particularly those to which we received no reply, and copies of any other correspondence we conducted therein.

"If you are not able to do anything else, and if you do not think there is a likelihood of either criminal or civil action being possible against Mr. Gibson, you may nevertheless be in a position to recommend to us a reliable lawyer in Monrovia, preferably a European. Our experiences with non-European legal practitioners in Liberia, particularly, and also in other parts of Africa, have been most unfortunate. Mr. William E. Dennis, we must say, however, in justice gave this matter fairly prompt and satisfactory attention, omitting only to reply to our enquiry as to what steps we could take against Mr. Gibson.

"We trust that we are not putting you to any inconvenience by our request, and thank you in anticipation of your kindly attention.

"Respectfully,
ADAMS & ADAMS
Per E. V. ADAMS.

"POSTSCRIPT:

"We may mention that the draft which we remitted to Mr. N. H. Gibson was dated the 18th October 1933 and was paid by the Bank on the 30th December 1933 being endorsed by the payee to the order of Bennis & Co., who in turn endorsed it to the order of Frederick T. H. Behn.

"ADAMS & ADAMS
Per E. V. ADAMS."

On June 15th, 1936, a formal request marked "BB" in lieu of a summons, as Mr. Gibson was a member of the legal profession, was made and forwarded to Counsellor N. H. Gibson, requesting his presence on the 18th for an investigation of said matter on the 23rd.

The Committee granted the request of Mr. Gibson for

a postponement from the 18th of June to the 23rd. Thursday, June 23rd, 1936, the Committee met and Counsellor Gibson was present. The matter of his unprofessional conduct was thereupon taken up and exhaustively investigated, during the course of which it was found that he had placed himself in the most embarrassing position of not having either renewed the registration of the trademark or returned the draft to Messrs. Adams & Adams until pressure was brought to bear upon him through Mr. A. E. Yapp, British Consul-General at Monrovia, made to His Excellency the Secretary of State of Liberia, to spur Counsellor Gibson up to the point of returning the money received after Counsellor William E. Dennis had been retained by the complainants, Messrs. Adams & Adams, through the British Consulate General at Monrovia, to perform the duties Mr. Gibson had neglected to perform.

They also found that Counsellor Gibson's misconduct had caused Messrs. Adams & Adams to place on record a general condemnation of all Liberian lawyers which tends to be very injurious to the members of the legal profession of the Republic.

It is worthy of observation that, throughout the whole investigation, Counsellor Gibson persistently sought refuge under the flimsy notion of "Inadvertence" to which he attributes his neglect to attend to the business of his clients. For example, on the 23rd of June, 1936, the first time he appeared before the Committee, Counsellor Gibson testifying in his own behalf said:

"Sometime in the year 1933, I received a letter from Adams & Adams to renew a Trade Mark 'Lucky Strike' and to send them my bill of services. I immediately wrote them requesting them to send me money, they sent me £3.4.2 draft but on account of some 'inadvertence' I did not perform the service."

And on the 11th of August, 1936, he wrote the Commit-

tee a letter of apology, and asked for clemency in which he stated:

"Yet I am nevertheless firmly bound to the position then taken, that it was 'distinctly an inadvertence' and not an intentional and wilful act or design to cheat my clients."

The Committee after having carefully listened to these pleas offered by Counsellor Gibson, namely: the pleas of "inadvertence and unintentional derelict" made exhaustive findings, and the following recommendation:

"It is therefore the unanimous opinion of this Committee that Counsellor N. H. Gibson was and is guilty of having most unprofessionally conducted the affairs of his clients, Adams & Adams, Patent & Trade Mark Attorneys of Pretoria, South Africa; that he has thereby almost irreparably injured his own professional reputation, and has in consequence traduced and depreciated the standard of the legal profession of Montserrado County, nay of the entire Republic: for which he should be suspended from all legal practice both in and out of Court and the Committee so recommends.

"And the Secretary of this Committee is hereby requested to forward a copy of these findings and recommendation to the Honourable the Supreme Court of Liberia for their action.

"Given under our hands in the City of Monrovia, this 30th day of November in the year of our Lord Nineteen hundred and thirty six (A. D. 1936.)

[Sgd.] R. F. D. SMALLWOOD,

Chairman.

" " T. G. COLLINS

" " M. DUKULY

*Secretary, Liberian Bar Committee,
Montserrado County, Republic of Liberia."*

Records of these proceedings were filed in this Court by said Committee on the 3rd day of December, 1936, in the chambers of His Honor the Chief Justice. He ordered the case docketed for the last November term of this Court in order to give the full bench a chance to consider the question, but, because of pressure of business at said term, the cause was only reached on the morning of the 16th day of April, 1937, when said matter was called up before the Court *en banc*, the findings of the Bar Committee and other parts of the record were read, and the hearing began with the following facts found:

1. From these records it is clear that Counsellor Gibson actually received the draft for three pounds, four shillings and two pence from his clients, Messrs. Adams & Adams, Patent & Trade Mark Attorneys of Pretoria, South Africa for the purpose of renewing the trademark "Lucky Strike" sometime in November, 1936.

2. That he failed and neglected to renew the said trademark although he received a check covering registration fees and compensation for professional service.

3. That during the entire investigation, Counsellor Gibson did not give the Committee any reason whatever which might have justified his pleas of "inadvertence" and "unintentional derelict" which pleas themselves were incompatible with the duty that devolves upon a lawyer to faithfully and punctually attend to the business entrusted to him by his clients from time to time.

It will here be observed that it was only during the investigation before the Bar Committee that Counsellor Gibson seemed to have realized the gravity of his unfortunate position, and it was then that he submitted to them evidence of his having paid over the amount received in their behalf to Counsellor William E. Dennis, whom his clients had subsequently retained to perform the duties Mr. Gibson, their former lawyer, had neglected. The Committee, however, expressed itself as of the opinion that the mere payment of this amount, under virtual compul-

sion, did not at all minimize the fact of unprofessional conduct, although the evidence was insufficient to establish criminal conversion.

This Court, having carefully considered the said findings, Counsellor Gibson's professed penitence, and his plea for mercy at this bar, is of the opinion that Counsellor N. H. Gibson was guilty of having unprofessionally conducted the affairs of his clients, Messrs. Adams & Adams, Patent & Trade Mark Attorneys, Pretoria, South Africa; that he has thereby injured his own professional reputation, and has in consequence tended to depreciate the standard of the legal profession of this Republic, particularly the bar of Montserrado County.

In view of the foregoing, this Court feels that the sentence of suspension from the general practice of law should be so modified, as to read: That said suspension from the *general practice of law* should be for a period of three (3) calendar months, coupled with a specific suspension from the privilege of practicing as a Patent, Trademark and Copyright Attorney, in which special branch he has been shown to have gone wrong, for a period of one (1) calendar year; and it is hereby so ordered.

Modified.