

MOMO TAMBO, Appellant, v. REPUBLIC OF
LIBERIA, Appellee.

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

Decided February 9, 1933.

If a juror is admitted to try a cause without objection or after objection has been made and is disallowed, the verdict shall not thereafter be set aside for any disqualification of the juror existing prior to his acceptance as a juror.

Defendant was convicted of murder in the Circuit Court and his motion in arrest of judgment denied. On appeal to this Court, *affirmed*.

Phelps and *Wolo* for appellant. *The Attorney General of Liberia* for appellee.

CHIEF JUSTICE JOHNSON delivered the opinion of the Court.

Appellant was indicted at the August term, 1931, of the Circuit Court, First Judicial Circuit, Montserrado County, for the crime of murder, was tried and convicted of said crime at the May term, 1932, of said court and was sentenced to be executed on the fourth day of September 1932.

From the verdict of the petit jury and the judgment of the Circuit Court appellant has appealed to this Court on a bill of exceptions.

The facts found at the trial of the case appeared to be substantially as follows:

Appellant is a resident of the Town of Gayah in the Dey Senjah Section in the rear of the settlement of Royesville in Montserrado County where he lived with his wife Kama Kpanah, the decedent.

On a certain night after appellant and his said wife had retired to bed, one Singby Koh made an alarm saying that appellant had told him to get up as he, appellant, had severely wounded his wife. Decedent was found mortally wounded, and a bloody cutlass, which was identified as the property of appellant, was found lying across her body. Decedent died four days after the infliction of said wounds upon her body.

Meanwhile appellant had fled to his father who lived in another town and told him that he had done something bad. The Clan Chief and other villagers pursued and caught appellant and brought him to Gayah. Before a council of chiefs he confessed that he had wounded his wife on account of jealousy.

The bill of exceptions is voluminous, containing 15 points, but we will only touch on the main points in said bill of exceptions.

As much stress was laid upon the motion in arrest of judgment, we will dispose of the points raised in said motion before proceeding further with the case. The motion reads as follows:

“Momo Tambo respectfully motions this Honourable Court to arrest judgment in this case for the following reasons to wit:

“1. Because the verdict of the jury is manifestly prejudicial and unjust in that Charles Shelton, one of the jurors empanelled and sworn to try the issue joined between the plaintiff and defendant, is not a peer of defendant by virtue of the terms of law, because he is a citizen or resident of the County of Grand Bassa and not that of Montserado County, the vicinity within which the crime was committed and within which defendant is being tried; wherefore said verdict having been illegally obtained should be held to be a nullity and of no force and effect.

“2. Because the verdict of the jury is contrary to the

law and evidence adduced at the trial in that at the trial of a case for murder when the crime charged in the indictment is not proven, but it is proven that a crime other than that laid in the indictment has been committed, the jury has the right to return a verdict for the crime proven.

The defendant submits that if any evidence at all has been adduced at the trial of the cause to convict of a crime, that crime is manslaughter and not murder.

- “3. And also because the evidence adduced at the trial of this cause of action is prejudicial and is based upon the mere confession extorted from defendant by force and violence and duress, as will more fully appear from the records in the case, in violation of law; wherefore said evidence and the verdict supported by it should be ignored and held for nothing to the end that the judgment of this court based upon this action may be made null and void.”

As to the first point, the statute provides that if a juror is admitted to try a cause without objection or after objection has been had and disallowed, the verdict shall not be set aside on any disqualification existing before his acceptance as a juror. The court below therefore did not err in refusing to arrest the judgment on the ground stated in the first point in the bill of exceptions.

As to the second and other points in the motion of arrest of judgment, the evidence clearly showed that the crime committed by appellant was murder and not manslaughter.

The verdict of the jury and the judgment of the court below were clearly supported by the evidence in the case.

We are therefore of the opinion that the judgment of the court below should be affirmed and the prisoner should be executed on such date as may be appointed by the Executive.

The Clerk of this Court is hereby ordered to send down a mandate to the court below informing the judge to this effect. And it is so ordered.

Affirmed.