IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA SITTING IN ITS MARCH TERM, A.D. 2018.

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.......................CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEH ....ASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.........ASSOCIATE JUSTICE
BEFORE HIS HONOR: PHILIP A.Z. BANKS III...................ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH................ASSOCIATE JUSTICE

Patrick Konuwa and Fahn F. Borbor, of the City Of Monrovia, Liberia.............................Appellants)
)
Versus) APPEAL
)
Republic of Liberia by and thru the John F. Kennedy Medical Center (JFK).......... Appellee)
)
GROWING OUT OF THE CASE:)
) CRIMES:
Republic of Liberia by and thru the John F. Kennedy Medical Center (JFK)............Plaintiff) ECONOMIC SABOTAGE
) THEFT OF PROPERTY
) MONEY LAUNDERING
Versus) CRIMINAL CONSPIRACY
) CRIMINAL FACILITATION
Patrick Konuwa and Fahn F. Borbor, of the City Of Monrovia, Liberia..................... Defendant)

HEARD: October 3, 2017 DECIDED: July 4, 2018

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

At the call of this case for hearing on May 24, 2017, this Court observed that lawyers for both parties were absent from the hearing, thus necessitating a re-assignment of the case to another date. On August 23, 2017, the case was called for the second time, but said hearing was again postponed due to the appellants' lawyer filing a letter of excuse which was read in open Court and granted. On October 3, 2017, the case was called for the third time and again the Court noted the absence of the counsel representing the appellants. Given the absences of the appellants' counsel, the appellee's counsels made a submission on the records, evoking Section 4, sub-section 6 (c) of the Revised Rules of the Supreme Court which states thus: *"If a party appears, and the other party does not appear, but files a brief, the court will proceed to hear the argument of the party appearing, and render its decision on the basis of the brief filed and the argument of the party appearing..."*

The appellee's submission being in consonance with the evolving practice and the above quoted Revised Rules of the Supreme Court, and noting that both Parties had filed their respective briefs, the Court accordingly granted the appellee's request, waived arguments, and proceeded to make a determination of the appeal based on the records and the briefs before the Court.

The records show that this appeal grows out of a final judgment of guilty rendered on November 2, 2016 by the First Judicial Circuit Court, Criminal Assizes 'C' against Patrick Konuwa and Fahn F. Borbor, the appellants herein, for the commission of the crimes of theft of property, criminal conspiracy, and criminal facilitation. The indictment alleged and narrated an in-depth analysis of financial fraud shrouded in syndicated schemes and transactions perpetrated by several persons named therein, including the appellants.

The facts as contained in the records revealed that on April 1, 2016, co-appellant Patrick Konuwa, co-appellant Fahn F. Borbor *alias* Henry K. Sambola, Boakai J. Varney, Rebeah Arnous, James Ricks, Lethia W. Waleh, Prince Jallah, Grace Dolly Jallah, John Fred Kennedy, Thomas G. Telewoyan, *alias* John Franklin Kennedy, Jerry D. Morlu, Benjamin Wlay Dargbe, Jr., Thomas Oliver Mezzeh, Ballah Holmes, John Freeman Kennedy and others that were to be identified were jointly and severally charged and indicted for the commission of the crimes Economic Sabotage, Theft of Property, Money Laundering, Criminal Conspiracy and Criminal Facilitation; that the named defendants in their individual capacities and collective roles, willfully and purposefully colluded and conspired with each other to steal, and did steal and convert the total amount One Hundred Twenty Six Thousand Three Hundred United States Dollars (US$126,300.00) and Sixteen Million Five Hundred Fifty Thousand Four Hundred Sixteen Liberian Dollars Forty Cents (L$16, 550,416.40) from the John F. Kennedy Medical Center, which, according to the indictment, are in violation of various provisions the New Penal Law of Liberia.

Based upon the applicable provisions of the New Penal Law, the State criminally charged and indicted the named defendants, specifically alleging as follows:

1. That between the period March 2015, up to and including January 2016, co-appellant Patrick Konuwa, being the Account Officer of the John F. Kennedy Medical Center intentionally colluded and conspired with co-defendant James Ricks, the former Clearing Officer of the First International Bank Liberia Limited (FIB), co-defendant Lethia W. Waleh, a former Customer Service Officer of the First International Bank Liberia Limited (FIB), co-defendant Prince Jallah, a former Hardware Technician of the Central Bank of Liberia and others to be identified to defraud the John F. Kennedy Medical Center of its generated revenue and financial subsidies received from the Government of Liberia through a criminal conspiracy scheme.

2. That on August 28, 2015, Co-defendant Lethia W. Waleh, a former Customer Service Officer of the First International Bank Liberia Limited (FIB) in conspiracy with co-appellant Patrick Konuwa, knowingly and purposefully opened a fictitious Liberian Dollar checking account bearing Account No. 00-101-0138306-01 in the name of a purported "John Freeman Kennedy", a Co-Defendant yet to be identified, without any deposit being made into the said checking account; that co-defendant Lethia W. Waleh used fake and unsigned identification cards to opened the said checking account despite the fact that she had every reason to know that all accounts at the First International Bank Liberia Limited (FIB) could only be opened with a valid photo and identifications such as passports, driver license, and valid working identification card. It is also alleged that co-defendant Lethia W. Waleh opened another fictitious checking account in

United States Dollars bearing Account No. 00-112-018306-02 in the name of a purported "John F. Kennedy" to be identified without any deposit being made into the said account.

3. On October 1, 2015, and November 25, 2015, co-appellant Patrick Konuwa being the Account Officer of the John F. Kennedy Medical Center knowingly and intentionally received from the Ministry of Finance two (2) Central Bank checks issued in favor of the John F. Kennedy Medical Center in the amount of Six Million Nine Hundred Eighty Nine Thousand Liberian Dollars Eighty Cents (L$ $6,989,266.80) and Eight Million Sixty Six Thousand Eight Hundred Eighty Nine Liberian Dollars Sixty Cents (L$8,066,889.60) respectively; that upon receipt of these checks, co-appellant Patrick Konuwa took the checks to his boss, Cerina Rose-Marie Gbarba, the Chief Finance Officer at the John F. Kenedy Medical Center who endorsed same at the back with the inscription: "for deposit only into J. F. K. MEDICAL CENTER Liberian Dollar subsidy account bearing account number 01-206-300065-02 at the Central Bank of Liberia"; that although the two checks were issued in the name of the John F. Kennedy Medical Center and intended to be deposited into the John F. Kennedy Medical Center subsidy account at the Central Bank of Liberia, co-appellant Patrick Konuwa with the assistance and facilitation of Co-Defendant James Ricks, a former Clearing Officer of the First International Bank Liberia Limited (FIB) caused the checks to be deposited at the First International Bank Liberia Limited (FIB) into the Liberian Dollar checking account No. 00-101-0138306-01 which was opened by co-defendant Lethia W. Waleh, a former Customer Service Officer of the First International Bank Liberia Limited (FIB); that in order to conceal his crime, Co-appellant Patrick Konowa obtained fraudulent deposit slips of the Central Bank of Liberia purporting to show actual deposit of the checks and then submitted the fraudulent deposit slips to the Cashier of the John F. Kennedy Medical Center, who posted the amount in the QuickBooks accounts system of the John F. Kennedy Medical Center.

4. On October 16, 2015, and December 22, 2015 respectively, co-appellant Patrick Konuwa received two (2) checks on behalf of the John F. Kennedy Medical Center from Secure Risk Insurance Inc., and Medicare Insurance Inc. The check from Secure Risk Insurance Inc., being the first was drawn on an L.B.D.I checking account in the amount of Seven Hundred Fifty One Thousand Seven Hundred Sixty Liberian Dollars (L$751,760.00) and the second check from Medicare Insurance Inc., was in the amount of Five Thousand United States Dollars (US$5,000.00). It is alleged that upon receipt of these checks, co-appellant Patrick Konuwa concealed the checks from the John F. Kennedy Medical Center and then deposited the checks at the at the First International Bank Liberia Limited (FIB) with the assistance and facilitation of co-defendants James Ricks and Lethia W. Waleh, former employees of the First International Bank Liberia Limited (FIB).

5. Having illegally deposited these four (4) checks which total Five Thousand United States Dollars (US$5,000.00) and Fifteen Million Eight Hundred Seven Thousand Nine Hundred Sixteen Liberian Dollars Forty Cents (L$15,807,916.40) respectively, co-appellant Patrick Konuwa with the assistance and facilitation of

co-defendant James Ricks withdrew the amount of Four Thousand Nine Hundred United States Dollars (US$4,900.00) and Fifteen Million Seven Hundred Seventy Four Thousand Seven Hundred Forty Liberian Dollars (L$15,774,000.00) respectively from the checking accounts at the First International Bank Liberia Limited (FIB). It is alleged that in withdrawing these amounts from the bank the conspirators, co-appellant Patrick Konuwa and co-defendant James Ricks issued checks in the names of co-defendant Ballah Holmes, a student of the Lincoln College, Co-Defendant Jerry D. Morlu, an employee of the Ministry of Post and Telecommunication and other co-defendants yet to be identified.

6. That between April 2015 and August 2015, co-appellant Patrick Konuwa in collusion with co-defendant Prince Jallah, a Hardware Technician of the Central Bank of Liberia, Co-Defendant Grace Dolly Jallah, a former Executive Secretary to the CEO of John F. Kennedy Medical Center, co-appellant Fahn Borbor *alias* Henry K. Sambolah, co-defendant Thomas Oliver Mezzeh, co-defendant Benjamin Wlay Dargbe Jr., and other co-defendants conspired in stealing and cashing several checks of the John F. Kennedy Medical Center, in the total amount of Eighty One Thousand Five Hundred Seventy Six United States Dollars Fifty One Cents (US$81,576.51).

7. On May 27, 2015, co-appellant Patrick Konuwa prepared a fraudulent Check Book Request Order, forged the signatures of the Chief Executive Officer of the John F. Kennedy Medical Center, Dr. Wyannie Scott-Macdonald and the Deputy Administrator of the said Center, Ms. Munah Tarpeh on the request order, and then obtained two check-books from the Central Bank of Liberia with series numbers 551-600 and 601-650 respectively for the John F. Kennedy Medical Center's account at the Central Bank of Liberia bearing account number 02-206-300065-00. It is alleged that thereafter, co-appellant Patrick Konuwa issued eighteen (18) checks in the names of himself, co-defendant Thomas Oliver Mezzeh, co-defendant Benjamin Wlay Dargbe, Jr., co-appellant Fahn Borbor *alias* Henry Sambolah and other co-defendants yet to be identified. In addition thereto, the indictment alleged that co-appellant Patrick Konuwa intentionally stole four (4) checks from the John F. Kennedy Medical Center in the total amount of Nine Thousand Six Hundred Ninety Four United States Dollars Fifty Cents (US$9,694.50) and Three Hundred Twelve Thousand Five Hundred Liberian Dollars (L$312,500.00) respectively, and issued same in favor of co-appellant Fahn Borbor who, by use of a fictitious identity card, purported to be Henry Sambolah. The four checks issued in favor of co-appellant Fahn Borbor *alias* Henry Sambola was enchased with the assistance and facilitation of co-defendant Prince Jallah, a Hardware Technician of the Central Bank of Liberia who approved same by affixing his signature to the four checks.

8. In order to conceal these fraudulent transactions immediately stated herein above, co-appellant Patrick Konuwa conspired with co-defendant Prince Jallah of the Central Bank of Liberia to print false bank statements of the John F. Kennedy Medical Center's account which co-appellant Patrick Konuwa obtained and placed on the financial records of the John F. Kennedy Medical Center. It is also alleged that co-defendant Prince Jallah and his wife co-defendant Grace Jallah, an

Executive Secretary to the CEO of the John F. Kennedy Medical Center personally convinced co-defendant Thomas Oliver Mezzeh and co-defendant Benjamin Dargbe, Jr., to have checks issued in their names and also facilitated the encashment of these checks issued in the name of co-defendants Thomas Oliver Mezzeh and Benjamin Dargbe, Jr.

9. On March 13, 2015, co-defendant Thomas G. Tellewoyan in conspiracy with co-appellant Patrick Konuwa to defraud the John F. Kennedy Medical Center of its revenue fraudulently opened a United States Dollar personal savings account in the name of a purported 'John Franklin Kennedy' at the International Bank Liberia Limited (IBLL) bearing account number 10-2030-102853-01. It is alleged that co-appellant Patrick Konuwa received a check from the Medicare Insurance Inc., in the amount of Three Thousand Fifty Four United States Dollars (US$3,054.00) drawn on an International Bank Liberia Limited (IBLL) check, in favor of John F. Kennedy Medical Center; that upon receiving the check, co-appellant Patrick Konuwa deposited same in the account opened by co-defendant Thomas G. Tellewoyan; that between March 13, 2015 to March 17, 2015, co-defendant Thomas Tellewoyan withdrew Two Thousand Nine Hundred Fifty Five United States Dollars (US$2,955.00) from the said account and converted same to his personal benefit and that of co-appellant Patrick Konuwa.

10. On April 6, 2015, co-appellant Fahn F. Borbor in conspiracy with co-appellant Patrick Konuwa fraudulently opened two (2) personal saving accounts in Liberian Dollars and United States Dollars under the pseudo name of 'John Fred Kennedy' at the International Bank Liberia Limited (IBLL) bearing account numbers 10-2030-141579-02 and 10-2030-141579-01 respectively. It is alleged that on September 11, 2015, co-appellant Patrick Konuwa received a check of Four Hundred Thirty Thousand Liberian Dollars (L$430,000.00) from the Medicare Insurance Inc., in favor of the John F. Kennedy Medical Center; that co-appellant Patrick Konuwa deposited the said check in the Liberian Dollar saving account at the International Bank Liberia Limited (IBLL) opened by co-apellant Fahn Borbor; that subsequently, Co-Defendant Fahn Borbor withdrew Four Hundred Twenty Nine Thousand Eight Hundred Liberian Dollars (L$429,800.00) from the said account and converted same to his personal benefit and that of co-appellant Patrick Konuwa

11. Between March 2015, to December 2015, co-appellant Patrick Konuwa received sundry checks totaling Twenty Five Thousand Eight Hundred Eleven Dollars Seventy Eight Cents (US$25,811.78) from the Medicare Insurance Inc., in favor of the John F. Kennedy Medical Center; that co-appellant Patrick Konuwa deposited the check in the United States Dollar saving account at the International Bank Liberia Limited (IBLL) opened by co-appellant Fahn Borbor; that subsequently, co-appellant Fahn Borbor withdrew Twenty Five Thousand Seven Hundred Seventy Three United States Dollars (US$25,773.00) from the said United States Dollars account and converted same to his personal benefit and that of co-appellant Patrick Konuwa

12. That co-defendant Boakai J. Varney, the Senior Budget Accounts Officer of the John F. Kennedy Medical Center responsible to reconcile the accounts of the John F. Kennedy Medical Center willfully and criminally neglected his responsibilities thus allowing these fraudulent transactions to go unnoticed. It is also alleged that co-defendant Arnous Rabeah, the former IT and Database Supervisor of the John F. Kennedy Center conspired with co-apellant Patrick Konuwa to conceal these fraudulent transactions in that co-defendant Arnous Rabeah mislead the Chief Financial Officer of the John F. Kennedy Medical Center, Cerina Rose-Marie Gbarba, to have 'Team Viewer' software installed on her computer which he, co-defendant Rabeah, subsequently used to remotely access the Chief Financial Officer's computer, with the intent to post fraudulent transactions into the John F. Kennedy Medical Center QuickBooks System.

As stated earlier, the indictment alleged that the defendants colluded and conspired to steal and convert the total amount of One Hundred Twenty Six Thousand Three Hundred United States Dollars (US$126,300.00) and Sixteen Million Five Hundred Fifty Thousand Four Hundred Sixteen Liberian Dollars & Forty Cents (L$16,550,416.40) from the John F. Kennedy Medical Center.

On May 11, 2016, co-defendants, Rebeah Arnous and Thomas Telewoyan, individually filed motions requesting separate trials from the other co-defendants, basically contending that their defenses were distinct and antagonistic to those of the other co-defendants as contained in the indictment, and as such, they were entitled to separate trials as a matter of right.

The State in its resistance to both motions stated that there was sufficient evidence to prove that the defendants acted in concert and had common interest in perpetrating the crimes charged against them, in that they criminally conspired to commit the crimes stated in the indictment; as such, the defendants were not entitled to separate trials since their defenses were also aligned.

On May 24, 2016, upon hearing the two (2) motions and the resistances thereto, the trial judge denied both motions and ordered that the trial be proceeded with.

There being no showing in the records certified to this Court that the said co-defendants excepted to the ruling of the trial judge denying their motion for separate trials or that they pursued any available remedial process, we shall not dwell on this issue.

Upon arraignment, co-defendants Benjamin Wlay Dargbe, Jr., Thomas Oliver Mezzeh, Thomas G. Telewoyan, and James Ricks pleaded guilty to the charges levied against them in the indictment, and requested the trial judge's permission to enter into plea bargain agreements with the State; the State having interposed no objection to the co-defendants' request, the trial judge granted same conditioned on the State returning said plea bargain agreements to the court for its approval.

The request by these co-defendants and the trial judge's action in granting same though unique to our jurisdiction, but predicated upon the fact that both the co-defendants through the advice of their legal counsels voluntarily agreeing to enter into said agreement with the State and this Court will not disturb the voluntary acts by the co-defendants and the State. Moreover, none of the parties have raised any contention or challenged said agreement.

The co-defendants having pleaded guilty to the crimes in the indictment and subsequently entered plea bargain agreements with the State, the trial judge, in consonance with the applicable law, reserved his final judgment and sentencing of said co-defendants pending conclusion of the trial of the remaining co-defendants, *viz.*, Patrick Konuwa, Fahn F. Borbor, and Rabeah Arnous. We quote below the applicable law referenced herein:

> "If a defendant after indictment desires to enter a plea of guilty, he shall be arraigned immediately in open court even though the court is not then in session. If this plea is accepted, sentence shall be imposed without delay, or immediately on the receipt of a presentence report if such a report is required by law or requested by the judge. No trial is necessary following a plea of guilty." Rev. Code 2:16.5.

By virtue of the co-defendants voluntarily entering plea bargain agreements with the State, and the trial court accepting same, in consonance with the above quoted provision of the law, the trial judge properly applied the law when he reserved his final judgment and sentencing of the co-defendants pending the conclusion of the trial of the remaining co-defendants.

In order to appreciate the totality of the provisions of the plea bargain agreement, which we have earlier stated, is unique to our jurisdiction, we quote below the full text of one of said agreement as to co-defendant Thomas Oliver Mezzeh which is similar in contents with the other co-defendants' plea bargain agreements. The said agreement reads thus:

> "<u>DEFENDANT'S PLEA AGREEMENT</u>
>
> This plea agreement is entered into pursuant to the authority and directives included within Section 16.4 of the Criminal Procedure Law of the Republic of Liberia, and in conformity with the Liberian Prosecutor's Code of Conduct, by and between the Defendant, Thomas Oliver Mezzeh, through his attorney, Cllr. Mamee S. Gongbah, and the Republic of Liberia, by and through the Ministry of Justice, and represented by the County Attorney of Montserrado, Counsellor J. Daku Mulbah.
>
> In accordance with this Plea Agreement, Defendant, Thomas Oliver Mezzeh, agrees to enter his plea of guilty to the crimes of Economic Sabotage, Theft of property, Money Laundering, Criminal Conspiracy and Criminal Facilitation, a violation of New Penal Code Section 15.80(a)(b)(c) 15.81 (a)(b)c), and 18.82(a)(b)(c),which was committed by him between the period May 27, 2015 to August 28, 2015 at the Central Bank of Liberia, Corner of Warren and Carey Streets, Monrovia, Montserrado County, Republic of Liberia, against the Government of Liberia by and thru the Management of the John F. Kennedy Medical Center, which crimes are more particularly described in the indictment issued against him by the Grand Jurors of Montserrado County on April 1, 2016. A copy of said indictment is included within the Court's case file and is attached hereto and incorporated herein as if fully rewritten. Defendant was arrested for the aforesaid crime on or about April 1, 2016.

In consideration of the Defendant's plea of guilty as aforesaid, the Republic of Liberia, through its Ministry of Justice, will move to dismiss with prejudice all other criminal charges, if any, included within the aforesaid indictment, and recommends to this Honorable Court that the Defendant receive the sentence referenced below for his crimes. To the extent imprisonment is recommended herein, it is done so because any lesser sentence will depreciate the seriousness of the Defendant's Crime.

Total Term of Imprisonment: Sixty (60) Days
Minus Credit for Pre-Existing Period of Incarceration: N/A

Balance of Imprisonment Term: Sixty (60) Days, to be served as follows:

Additional Period of Actual Imprisonment: Sixty (60) Days, and;

Supervised Probation: N/A

The Republic of Liberia, through its Ministry of Justice, has entered into this plea agreement with the Defendant after due consideration of the gravity of the crimes, the Defendant's role and/or participation in the crimes, the incarceration period already experienced by the Defendant, the evidence with which the Republic is prepared to proceed, the inherent risks associated with trial, the potential trial outcome, Defendant's criminal history, and the need to serve the interest of justice on behalf of all of the citizens of the Republic including, but not limited to, police investigators and/or Complainant.

The Defendant admits that he is knowingly, voluntarily and intelligently pleading guilty because he is, in fact, guilty of the crimes of Economic Sabotage, Theft of property, Money Laundering, Criminal Conspiracy and Criminal Facilitation as particularly described in the aforementioned indictment, the terms of which were read to him at his arraignment and are fully understood by him. The Defendant hereby admits to recognition of an affirmative acceptance of responsibility for his crimes.

The Defendant also understands, acknowledges, and admits that:

1. He is not under the influence of any drug, medication, alcohol or other intoxicant or depressant, prescription or otherwise, which would impair his ability to fully understand the terms and conditions of this agreement, and;

2. By pleading guilty, he will be potentially subject to, and risks the imposition of, the following maximum criminal penalties and mandatory minimum criminal penalties:

A. Maximum Term of Imprisonment: Ten (10) years;

B. Mandatory Minimum Term of Imprisonment: N/A, and;

3. By pleading guilty, he is waiving, giving up and forfeiting all applicable constitutional, procedural, statutory and other legal rights to which he would be entitled, if he was not inclined to plead guilty including, but not limited to, the right:

A. to trial by jury;

B. to a speedy trial;

C. against self-incrimination;

D. to present evidence on his own behalf;

E. to confront adverse or hostile witnesses through cross-examination;

F. to appeal his conviction (but not the right to appeal an illegal sentence);

G. to challenge defects in the indictment;

H. To vote during any and all periods of incarceration, and;

4. By pleading guilty, he will be adjudicated guilty of the crimes of Economic Sabotage, Theft of property, Money Laundering, Criminal Conspiracy, Criminal Facilitation by the court, and;

5. The Court is not a party to, and is not bound by the terms of this agreement nor any recommendations made by the Republic of Liberia, through its Ministry of Justice and, as a consequence thereof, the Court is free to impose upon him any sentence up to and including the maximum term of imprisonment referenced above, and;

6. He may withdraw his agreement to plead guilty, as aforesaid, at any time prior to the time when he actually enters his plea of guilty on the records before the court, but not thereafter except upon clear and convincing proof of very limited and unusual circumstances, such as fraud and coercion, and;

7. If the Court imposes a sentence with which he is dissatisfied, he will not be permitted to withdraw his guilty plea for that reason alone. Nor will the Defendant be permitted to withdraw his guilty plea if the Court declines to follow any recommendation made in this agreement by the Republic of Liberia, through its Ministry of Justice, and;

8. He will not be granted any period of probation unless the Court finds, at the time of sentencing, after full consideration of the factors outlined in Section 33.1.2 of the Criminal Procedure Law, that probation will serve the interests of justice, and;

9. He has discussed with his attorney(s) the facts of this case, the elements of the crime(s) with which he is charged, the legal defenses available to him, his constitutional, procedural, statutory and other legal rights including the significance of his waiver of these rights, all other legal consequences of his guilty plea, and all other matters important to his case, and;

10. He is represented by competent legal counsel, and he is satisfied that his attorney(s) have rendered effective legal assistance to him in this case, and;

11. He has read this plea agreement, or has had this plea agreement read and explained to him by his attorney(s), and that he fully and completely understands and agrees to all of the terms and conditions contained in this plea agreement, and;

12. This plea agreement constitutes the entirety of the agreement between and among the Defendant, his attorney(s), the Republic of Liberia, through its Ministry of Justice and its attorney(s), and that no one has threatened or

forced the Defendant to plead guilty, and no promises or inducements have been made to the Defendant other than those contained in this written plea agreement.

On the basis of the foregoing, the Defendant, Thomas Oliver Mezzeh, agrees to, and stands ready to knowingly, voluntarily, and intelligently enter on the records of this Court, his plea of guilty to the crimes of Economic Sabotage, Theft of property, Money Laundering, Criminal Conspiracy and Criminal Facilitation, which was committed by him on or between the period May 27, 2015 to August 28, 2015 at the Central Bank of Liberia, Corner of Warren and Carey Street, Monrovia, Montserrado County, Republic of Liberia, against the Government of Liberia by and thru the Management of the John F. Kennedy Medical Center, which crimes are more particularly described in the indictment issued against him by the Grand Jurors of Montserrado County on April 1, 2016.

Thomas Oliver Mezzeh, Defendant — Date

Counsel for Defendant — Date

Cllr. J. Daku Mulbah, County Attorney — Date
Montserrado County, Republic of Liberia"

Reviewed and approved by:

Betty Lamin-Blamo, Solicitor General — Date
Republic of Liberia

I, as Legal Counsel for the Defendant named herein, have discussed with said Defendant the terms of this agreement, the facts of this case, the elements of the crime(s) with which he is charged, the legal defenses available to him, his constitutional, procedural, statutory and other legal rights including the significance of his waiver of these rights, all other legal consequences of his guilty plea, and all other matters important to his case.

No assurances, promises, or representations, other than those contained in this agreement, have been given to me or to said Defendant by anyone, including the Republic of Liberia, through its representatives. I concur in the entry of this guilty plea on the terms and conditions set forth in this agreement, and I maintain the professional opinion that the entry of this guilty plea is in the best interest of said Defendant.

I agree to make a bonafide effort to ensure that the guilty plea contemplated herein is entered by said Defendant in accordance with this agreement and in accordance with the laws of the Republic of Liberia.

Cllr. Mamee S. Gongbah, — Date
Counsel for Defendant

On June 2, 2016, the State, *via* a submission on the records, requested separate trials for those co-defendants who were still at large and therefore not brought under the jurisdiction of the court.

The lawyer for co-appellant Patrick Konuwa resisted the motion stating *inter alia,* that the State having earlier resisted the issue of separate trials, which resistance was sustained by the trial judge in his ruling of May 24, 2016, the State was barred from making similar request for separate trials.

On the same date, June 2, 2016, the trial judge upon listening to arguments *pro et con* ruled that the request by the State for separate trials was distinct from those made by co-defendants Rabeah Arnous and Thomas Telewoyan, which we have already passed upon in this Opinion. We hold therefore, that the trial judge properly ruled that those co-defendants who were not brought under the jurisdiction of the court be tried separately from those who had been arraigned, entered pleas of not guilty thus joining issue with the State, as well as those co-defendants who plea bargained with the State and could not be tried since they had confessed judgment. Additionally, the records do not state the name or addresses of the remaining co-defendants that were referred to in the indictment as "to be identified" and there is no showing that co-defendants Boakai J. Varney, Lethia W. Waleh, Prince Jallah, Grace Dolly Jallah, John Fred Kennedy, Jerry D. Morlu, and Ballah Holmes were ever brought under the jurisdiction of the trial court.

At the commencement of the trial, the State produced several witnesses to include: two (2) regular witnesses in persons of Serina Gbaba, Chief Financial Officer (CFO) at the John F. Kennedy Medical Center, and Detective Peter W. Johnson of the Liberia National Police; one (1) expert witness in person of Fred Snorton, an IT Specialist; three (3) subpoenaed witnesses, *viz.*, Atty. James T. Y. Fallah of Ecobank, Momo Kamara, II., of Medicare Insurance Corporation, and Jacob O. Borderick of the Central Bank of Liberia; six (6) rebuttal witnesses in persons of Kebbeh Felkai of International Bank Liberia Ltd., Philip T. Cooper of Secure Risk, Momo Kamara, II., of Medicare Insurance Corporation, Serina Gbaba, Munah Tarpeh and Zonie Dokie, all of J.F. K Medical Center.

After the State rested with the production of evidence the co-defendants, Rabeah Arnous, Fahn F. Borbor, and Patrick Konuwa took the stand, each testifying in his own behalf, wherein they denied the charges in the indictment and the testimonies of the State's witnesses. They also produced three (3) additional witnesses, besides themselves, in persons of Wynston Poure, Mitchell Worjloh and William Kruah.

On September 26, 2017, the trial judge rendered his final judgment adjudging co-appellants Patrick Konuwa and Fahn F. Borbor guilty of the crimes of 'Theft of Property, Criminal Conspiracy, and Criminal Facilitation', whereas co-defendant Rabeah Arnous was adjudged guilty of the crime of Criminal Facilitation only. Thereafter, the trial judge imposed sentences on all the guilty defendants inclusive of those who had confessed judgment in their plea bargain agreements with the State. However, on September 29, 2016, upon noting his non-compliance with the provision of the Criminal Procedure Law on sentencing, the trial judge recalled the sentences of September 26, 2016 and proceeded to order the probation services of the trial court to present a presentence investigation report on the defendants adjudged guilty. Chapter 31, section 31.5(a) of the Criminal Procedure law provides as follows:

> "The Court shall not impose sentence without first ordering the Probation Services of the Court to make a pre-sentence investigation of the defendants and according due consideration to a written report of such investigation where:
> (a). The defendant has been convicted of a crime punishable by more than one year's imprisonment..."

The trial judge's compliance with the afore quoted statute was also in consonance with this Court's Opinion in the case *Yates v. Republic of Liberia*, October Term (2016), wherein the Court mandated strict compliance with the said Statute on the conduct of a sentencing hearing before the imposition of sentence. The Court reasoned that by the conduct of sentencing hearing the trial court is informed as to the criminal history, character, and condition of the defendant in making a determination as to the grade of sentencing and, whether the imprisonment of the defendant is necessary for the protection of the public, or otherwise suspend sentence on the grounds as provided for by the law.

Upon receipt of the presentence report, the trial judge conducted a sentencing hearing on November 2, 2016, and thereafter commenced the imposition of sentences on the defendants as follow:

> Co-appellant Patrick Konuwa was sentenced to imprisonment at the Monrovia Central Prison for five (5) consecutive years and ordered to restitute the amount of Thirteen Thousand Three Hundred Twenty Three United States Dollars & Ninety-One Cents (US$13,323.91) and Fifteen Million Eight Hundred & Seven Thousand Ninety-Four Liberian Dollars & Forty Cents (LD15,807,094.40);
>
> Co-appellant Fahn F. Borbor, was sentenced to imprisonment at the Monrovia Central Prison for the period of Five (5) consecutive years, and ordered to restitute the amount of Fifty Five Thousand Forty Nine United States Dollars & Twenty-Eight Cents (USD55,049.28) and One Million Forty Five Thousand Liberian Dollars (LR$1,045,000.00);

As to the sentences imposed on Co-appellants Patrick Konowa and Fahn F. Borbor, we note that the final judgment of the trial court adjudged these co-appellants guilty only of the crimes of theft of property, criminal conspiracy and criminal facilitation. The law provides that *"the defendant may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein if the attempt is an offense."* Criminal Procedure Law, Rev. Code 2:20.11(5).

Also in his final judgment, the trial judge imposed sentence of imprisonment of five (5) years on each of the co-appellants. We note that five (5) years imprisonment sentence is commensurate with the maximum term of a felony of the second degree. We quote below the relevant law:

> "For a felony of the second degree, to a definite term of imprisonment to be fixed by the court, the maximum of which shall be five years." Rev. Code 26:50.5(1)(b).

Our review of the records shows that the crime of economic sabotage, a felony of the first degree, was also charged against the appellants under the indictment, but the trial judge made no mention of this crime and neither did he give any reason for sentencing the co-appellants as he did, to five (5) years imprisonment, which is the maximum term for the crime of theft of property. However, we shall say more on the sentencing of the co-appellants later in the Opinion.

As to Co-defendant Rabeah Arnous, the trial judge sentenced him to one (1) month community service. We shall also address the sentencing of this co-defendant later in the opinion.

As to Co-defendant James Ricks, the trial court noting that although he had requested to enter plea bargain with the State, no such agreement was ever executed, ruled as follows:

"the indictment with which the Defendant James Ricks was charged says that he facilitated the encashment of series of checks carried to the bank by Patrick Konuwa. Defendant Patrick Konuwa having been adjudged guilty and sentenced for five (5) consecutive years, and Defendant James Ricks having facilitated the encashment of those checks for and on behalf of Patrick Konuwa, the law provides that he takes half of the sentence meted against Defendant Patrick Konuwa.

Accordingly, Defendant James Ricks, having pleaded guilty to the indictment upon arraignment, is hereby sentenced to the common jail [at the Monrovia] Central Prison for the period of two (2) consecutive years and ordered to make restitution as in keeping with law."

With respect to the aspect of the sentence regarding restitution, the trial judge was vague when he stated that Defendant James Ricks be *"...ordered to make restitution in accordance with law."* The trial judge failed to state the relevant law(s) on restitution in a criminal trial and the amount to be restituted. Also, we have found no law or principle of law within our criminal jurisprudence upon which the trial judge relied to impose sentence or his method of restitution.

Our Criminal Procedure and Penal Laws provide for sentencing and restitution in criminal cases based on the applicable laws as determined from the evidence adduced and proven at trial. The trial judge, having sat on the matter, listened to the testimonies, and reviewed the evidence, placed him in the position to pronounce sentence, and to state with precision the amount to be restituted. This, the trial judge failed to do, and this Court considers his action a grievous error.

The provisions of our Penal Law relative to restitution states thus:

> "Restitution. Unless restitution has been made prior to sentencing the court shall include in the sentence an order directing the defendant to return the property or pay its value to the person wrongfully deprived thereof..." Penal Law Rev Code, 26:50.9(5)

The records are void of any evidence indicating that Co-defendant Ricks made any restitution; what the records do show, as contained in the indictment, is that Co-defendant Ricks, a clearing officer of the First International Bank (Liberia) Ltd., used said position to allow and conceal the withdrawal of the amounts of Four Thousand Nine Hundred United States Dollars (US$4,900.00) and Fifteen Million

Seven Hundred Seventy Four Thousand Liberian Dollars (L$15,774,000.00), from fraudulent checking accounts opened at the First International Bank (Liberia) Ltd., in the fictitious name 'John Freeman Kennedy', by Co-appellant Konuwa. Pursuant to the above quoted provision of the law on restitution, Co-defendant Ricks should have been ordered to make restitution of the amounts withdrawn rather than given an unspecified amount to be restituted.

As for the other co-defendants who entered plea bargaining agreements with the State, the trial judge sentenced them as follows:

Thomas O. Mezzeh was sentenced to sixty (60) days of imprisonment at the Monrovia Central Prison, in keeping with the recommendation contained in his plea bargain agreement. We observed from the records that prior to the trial judge recalling the sentencing portion of his initial final judgment to await the report of the Probation Services of the trial court as mandated by law he had ordered Co-defendant Mezzeh to restitute the amount of Eight Thousand Five Hundred Twenty-Five United States Dollars (US$8,525.00). However, the presentence investigation report recommended that the restitution initially ordered by the trial judge be waived in consideration of what was referred to as "the co-defendant's meager income flow as a 'Money Exchanger' which would make it improbable for said co-defendant to comply with the judge's order of restitution." The trial judge, apparently being in agreement with the recommendation contained in the presentence investigation report, waived restitution of the afore-stated amount in favor of Co-defendant Mezzeh. We ask the question, what was the legal basis for the trial judge's action?

As to Benjamin Wlay Dargbeh Jr., the trial judge sentenced him to two (2) consecutive months of imprisonment at the Monrovia Central Prison, commencing as of the date of the rendition of the final judgment of November 2, 2016. Again, the trial judge waived restitution of the amount of Nineteen Thousand Two Hundred Eighteen United States Dollars & Fifty Cents (US$19,218.50) on the basis of the defendant's plea bargain agreement and the recommendation from the presentence investigation report, that the financial status of the co-defendant coupled with his employment as a 'barber' would be a serious challenge for him to comply with a restitution order.

The trial judge failed to realize that first and foremost, it is the law that is to be applied in each case giving due regards to the unique facts and circumstances of the case and not what is recommended in a presentence investigative report, or a plea bargain agreement, especially when the recommendations therein deviate from the dictates of the law.

Even the Plea Bargain Agreement states at counts four (4), five (5) and seven (7) as follows:

> *" 4. By pleading guilty, he will be adjudicated guilty of the crimes of economic sabotage, theft of property, money laundering, criminal conspiracy criminal facilitation by the court, and;*
>
> *5. The court is not a party to, and is not bound by the terms of this agreement nor any recommendations made by the Republic of Liberia, through the Ministry of Justice and, as a consequence thereof, the*

court is free to impose upon him any sentence up to and including the maximum term of imprisonment referenced above.

7. If the Court imposes a sentence with which he is dissatisfied, he will not be permitted to withdraw his guilty plea for that reason alone. Nor will the Defendant be permitted to withdraw his guilty plea if the Court declines to follow any recommendation made in this agreement by the Republic of Liberia, through its Ministry of Justice.

The above cited provisions are clear, and make no mandate to bind the trial court or judge to strictly adhere to recommendations contained in the plea bargain agreement which, as we have earlier stated, is unique to our criminal jurisdiction. Once these co-defendants pleaded guilty to all of the crimes charged in the indictment, which included economic sabotage, theft of property, criminal facilitation, criminal solicitation, and criminal conspiracy, the trial judge was duty bound to impose the requisite penalties commensurable with their offenses as mandated by the law. This is important and necessary as the one of basic reason for the imposition of penalties under the law is to serve as deterrence, thus ensuring the non-repetition of certain acts or crimes. Rather than imposing a sentence commensurate with the crimes confessed to by the co-defendants in consonance with the law, the trial judge proceeded to and imposed far less sentences of imprisonment and waived restitutions.

Taking recourse to general principles of criminal law regarding deterrence, we must remain cognizant that the purpose of deterrence is to discourage criminal activities or acts committed outside the pale of the law. Deterrence may either be specific or general; whereas specific deterrence is intended to discourage criminal behavior in the individual convicted of committing said act, general deterrence serves the purpose of discouraging the public at large by punishing the individual who is convicted of committing a particular crime. Moreover, the punishment must be commensurate with the crime otherwise the significance of deterrence will be diminished. Referencing the trial judge's sentencing of the above co-defendants, we hold that said sentences diminished the gravity of the crimes committed by the co-defendants against the John F. Kennedy Medical Center, the leading health facility in the country.

This Court says that although we are inclined to agree with the State that consideration be accorded these co-defendants who by their acts in making full disclosure of the facts and circumstances surrounding the commission of the crimes culminating in the successful prosecution of the case, said consideration should be done within the pale of the applicable laws. The law within our jurisdiction is that where two or more offenses are combined in a single act, the offence that carries the highest grade will apply when sentencing the convicted defendants. In this case, the trial judge should have sentenced these co-defendants at the level of economic sabotage, the highest crime charged and which is a felony of the first degree and carries the maximum term of imprisonment of ten (10) years. It was only after making said determination and upon consideration of the co-defendants' cooperation with the State, and the State's recommendation for mitigation, the trial judge could then impose sentence that would remain within the grade of economic sabotage but not impose a sentence within the range of another crime lower than the crime of economic sabotage.

We are also taken aback by the trial judge's waiver of restitution in favor of these two co-defendants, Mezzeh and Dargbeh, on the basis of recommendations made in the pre-sentence investigative report that due to their financial status, they would be unable to make restitution.

The Penal Law, section 50.9(5) states thus:

> "Unless restitution has been made prior to sentencing the court shall include in the sentence an order directing the defendant to return the property or pay its value to the person wrongfully deprived thereof, or pay the person whose property was damaged through the intentional or reckless commission of the offense, the amount of loss suffered therefrom." Rev. Code 2:50.9(5).

The above quoted provision of the law in no way authorizes the waiver of restitution by a judge or any other institution in favor of a convicted defendant because of said defendant's inability to make restitution for whatever reason. The law cited *supra* mandatorily provides that a defendant 'shall' be ordered to make restitution.

We must emphasize that the private prosecutrix in a criminal action, in this case, the John F. Kennedy Medical Center, suffered economic losses by the criminal actions of the defendants. As such, it is both unreasonable and illegal for the trial judge to have waived restitution in favor of two of the convicted defendants simply because they claimed that they lacked the financial capacity to comply with restitution. We shall conclude on this aspect of the trial judge's ruling later in the Opinion.

As to Thomas G. Telewoyan, the trial judge waived the imposition of a sentence of imprisonment, due to the fact that prior to final judgment, said co-defendant had already made restitution of Three Thousand Fifty Four United States Dollars (US$3,054.00), the amount stated in the indictment. The Criminal Procedure Law, Rev Code 2:33.1(1) states the grounds for which sentence may be withheld, the relevant portion of which we quote below:

> "The court shall deal with a person who has been convicted of a crime without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the crime and the history, character, and condition of the defendant, it is of the opinion that his imprisonment is necessary for protection of the public because:
>
> (a) There is undue risk that during the period of a suspended sentence or probation the defendant will commit another crime; or
>
> (b) The defendant is in need of correctional treatment that can be provided most effectively by his imprisonment; or
>
> (c) Imprisonment will tend to deter commission of the same type of crime by others; or
>
> (d) A lesser sentence will depreciate the seriousness of the defendant's crime."

According to the distinctive facts and circumstances as regards co-defendant Telewoyan, the records reveal that he opened at the International Bank Liberia Limited an account in the fictitious name of 'John Franklin Kennedy' in which he deposited a check in the amount of Three Thousand Fifty Four United States Dollars (US$3,054.00) received from Co-appellant Konuwa that was intended as payment to the John F. Kennedy Medical Center from the Medicare Insurance Company, and thereafter, he, Co-defendant Telewoyan withdrew from said account, the amount of Two Thousand Nine Hundred Fifty Five United States Dollars (US$2,955.00) and converted same to his personal use. We hold therefore, that having made restitution of the full amount of Three Thousand Fifty Four United States Dollars (US$3,054.00), we affirm the suspension of imprisonment.

As regards Rabeah Arnous, one of the co-defendants tried along with the present appellants, but who did not appeal the trial judge's final judgment, the State excepted to the portion of the trial court's ruling sentencing him to one (1) month of community service and announced a cross-appeal to the Supreme Court. The appeal announced by the State was denied by the trial judge on grounds that the State is prohibited from announcing an appeal from the sentencing of a criminal defendant.

Our Criminal Procedure Law in addressing the grounds by which an appeal may be taken by a defendant and the State in criminal case provides as follow:

> "An appeal may be taken by the defendant as of right from:
>
> a) A final judgment of conviction; or
> b) A sentence on the ground that it is illegal or excessive.
>
> An appeal may be taken as of right by the Republic from:
>
> a) An order granting a motion by the defendant to dismiss the indictment; or
> b) An order granting a motion for judgment of acquittal." Criminal Procedure Law Rev Code 2:24.2; Id. 24.3."

The Penal Law, Rev Code 26:51.2, also addresses the issue of appeal from sentence as follow:

> "The defendant may appeal from any sentence imposed by the court on the ground that it is improper under the criteria stated in Criminal Procedure Law, Section 33.1. Such appeal shall be taken by oral announcement in open court at the time of imposition of sentence. The clerk of the court shall transmit at least six copies of the record on appeal to the appellate court within ninety days after imposition of the sentence and a copy shall be served on the appellee within the same time limit. The clerk of the appellate court shall docket the case forthwith and forward a receipt for the record to the clerk who transmitted it. The record on appeal shall include a copy of any presentence report that was prepared, a transcript of the testimony before the sentencing court, and a copy of the statement of reason for the sentence imposed required by paragraph 8 of section 51.1. The provisions of section 24.9 of the Criminal Procedure Law with regard to the notice of completion of the appeal shall apply to appeals taken from the imposition of sentence. The appellate court may provide by rule of court for consolidation of the appeals from judgment of conviction and from the sentence pertaining to the same defendant."

We hold that pursuant to the above quoted provisions of law, the trial judge committed no error when he denied the State's right to appeal as none of the grounds enounced in the provisions of the laws cited are applicable to the State.

Notwithstanding, it should be quickly noted that although co-defendant Rabeah Arnous was sentenced to one (1) month of community service, this Court says that as guardian of the law it cannot also ignore the irregularities committed by the trial court in sentencing co-defendant Rabeah Arnous which we see as a complete disregard of the law on sentencing and presentence investigation report.

We observed that although co-defendant Rabeah Arnous was tried and convicted for the crime of criminal facilitation, the trial judge, in sentencing him, failed to particularize the grade of criminal facilitation pursuant to Section 10.2(3) of the Penal Law. This provision of the Penal Law which deals with different types of grade for criminal facilitation states thus:

> "Facilitation of a felony of the first degree is a felony of the third degree. Facilitation of a felony of the second degree or felony of the third degree is misdemeanor of the first degree."

This Court says, given the fact that the grade of criminal facilitation was a determinative factor in the sentencing of co-defendant Rabeah Arnous, it was incumbent on the trial judge to have provided the grade of the crime, criminal facilitation, rather than omitting same. Howbeit, this Court taking judicial notice of sections 50.2 (1) and 50.7 of the Penal Law as amended and published May, 2013, relating to the de-classification of felonies of the third degree to misdemeanor of the first degree, says that Economic sabotage being a felony of the first degree and the grade of the highest crime for which the principal actor was adjudged guilty, and also being the crime for which Co-defendant Arnous was adjudged guilty of facilitating, said facilitation is a misdemeanor of the first degree, punishable by imprisonment for a maximum term of one year.

Notwithstanding the above mentioned provision of law, the Criminal Procedure Law also permits trial judges to withhold sentence of imprisonment and impose probation thereof. We quote below the pertinent provision of said law:

> "When probation should be granted. When a person who has been convicted of a crime is not sentenced to imprisonment, the court shall place him on probation if he is in need of the guidance and assistance that is provided by probation and if the probation service is able to provide such guidance and assistance." Rev. Code 2:33.1(3).

We note that the trial judge having sentenced co-defendant Arnous to one (1) month community service, mandated that the one month community service be supervised by the Sheriff of the trial court. The function of enforcing or supervising a sentence imposed on a guilty defendant lies within the authority of the Executive Branch of government, through the Division of Corrections within the Ministry of Justice and not the office of the Sheriff; this function is provided for under section 41.4(c) of the Criminal Procedure Law which enumerates one of the functions of the Division of Corrections as follows: "*To administer probation services in the community*". Although the Sheriffs of the trial courts are employees of the Ministry of Justice, the law is clear as to whose responsibility it is to administer community service of a convicted defendant. Moreover, the records are void of any evidence as to the type of community service performed by Co-defendant Arnous or the locality or facility where he served.

In addition to withholding sentence of imprisonment and imposing sentence of probation thereof, the law mandates a trial judge to impose conditions associated with the sentence of probation, and this the trial judge also failed to do. We quote below the provision relative to the conditions of suspension or probation which states thus:

<u>Conditions of suspension or probation.</u>

> "Duty of court to attach conditions. When the court suspends the imposition of sentence on a person who has been convicted of a crime or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law abiding life or as will be likely to assist him to do so..." Rev. Code 2:33.2

We therefore hold that the one (1) month of community service allegedly served by co-defendant Arnous under the supervision of the sheriff of the trial court is *void ab initio*, for the trial judge's failure to adhere to the applicable laws.

We also observed from the sentencing of defendant Rabeah Arnous that the Bureau of Probation Services filed two separate reports, a presentence investigation report and the other captioned as "social inquiry report". The law extant in this jurisdiction with respect to sentencing as contained in section 31.5 of the Criminal Procedure Law provides that

> "the court shall not impose sentence without first ordering the probation service of the court to make a presentence investigation of the defendant ..."

A review of the Criminal Procedure Law, specifically the chapter from which the section we quoted *supra,* we note that the law makes no provision for a 'social inquiry report.' Moreover, the recommendations contained in both the Social Inquiry Report and the Presentence Investigation Report filed by the Bureau of Probation Services are distinct, in that the latter which is sanctioned by law, recommended a sentence of a magnitude sufficient to deter the guilty co-defendant or other would be offenders whereas the Social Inquiry Report recommended a minimum sentence and reinstatement on the job which we deem as a mockery of the law and detracts from the severity of the role played by Co-defendant Arnous in the commission of the crimes. This Co-defendant Arnous was the Information Technology personnel at the JFK Medical Center who used said position to facilitate the fraudulent transactions by Patrick Konowa allowing the latter access to the computer of the Chief Financial Officer (CFO) when he deliberately installed a Team Viewer Software on the CFO's computer. We quote below the recommendations contained in the two reports filed with the trial court by the Bureau of Probation Services:

Social Inquiry Report on Defendant RabeahArnous

Recommendation

Herein is defendant Rebeah Arnous who by virtue of information gathered in his community and previous places of work has proven that he is an honest and sincere person. Besides, the indictment drawn against the defendant does not state that he received any portion of the amount stolen. Notwithstanding, he is charged for criminal facilitation. In this light, the department of probation recommends to your honor that defendant be given a minimal sentence to include counseling for a period of one month and be reinstated on the job with management not obligated to pay him for the months for which he was suspended. Also the probation department should commence supervision of defendant and monitor his activities to ensure that defendant conduct himself properly and work to build the trust of his employer.

Presentence Investigation Report – RabeahArnous

Recommendation

"Considering the magnitude of the offense and the role played by the defendant in the commission of the offense and his failure to take responsibility of his action, the Division of Probation and Parole Services see it most likely that granting the defendant a lesser sentence will not serve as deterrence to him and other skillful technicians who might use or allow their skills to be used to defraud others. In view of the foregoing, we recommend that the defendant be given a sentence that will serve as deterrence for him and other would be offenders who may want to use their technical skills to defraud others."

In sentencing Co-defendant Rabeah Arnous, the trial judge did not utilize the recommendation from the presentence investigation report, but instead accepted the 'social inquiry report' and sentenced co-defendant Rabeah Arnous to one (1) month community service under the supervision of the Sheriff of the trial court. In fact, the lawyers representing the State conceded that the said Social Inquiry Report should never have been submitted to the trial court along with the Presentence Investigation Report. This act of the trial judge to ignore the presentence investigation report and sentence the defendant based upon a report that has no support in our Criminal Procedure Law, is unacceptable. We shall also conclude on co-defendant Arnous later the opinion.

We now return to the appellants before us, Patrick Konowa and Fahn F. Borbor the only two co-defendants who excepted to the trial court's final judgment, announced an appeal therefrom, and jointly filed a six (6) count bill of exceptions challenging the judgment and sentence imposed on them.

We quote hereunder the six (6) count bill of exceptions, to wit:

1. "That Your Honor erred when you overlooked and refused to hear the Bill of Information filed by Co-appellant Patrick Konowa regarding the manner

his home was ransacked by the State Security/Police during which items like laptop that has vital information for defense of his case was seized by the police and are in possession of the State.

2. That Your Honor erred when you adjudged defendants Patrick Konuwa and Fahn F. Borbor guilty in the absence of sufficient proof for the crimes charged.

3. That Your Honor erred to believe that checks endorsed for deposit by the Chief Financial Officer of J.F.K Medical Center were deposited by Co-appellant Patrick Konowa on ground that a deposit slip bearing the name Patrick Konuwa without any proof of the writing as to whether the writing on said deposit slip is that of Co-appellant Patrick Konowa.

4. That Your Honor erred when you agreed that the account allegedly opened by co-defendant Fahn F. Borbor for the appearance of his photo on the accounts card without proof of the writing and signature on the signature card was opened by co-defendant Borbor.

5. That Your Honor erred when you ruled that co-defendant Konuwa is to restitute Thirteen Thousand Three Hundred Twenty Three United States Dollars & Ninety-one Cents (US$13,323.91) and Fifteen Million Eight Hundred Seven Thousand Nine Hundred Sixteen Liberian Dollars & Ninety-four Cents (L$15,807,916.94) without any proof and that Your Honor erred when you also ruled that co-defendant Borbor is to restitute Fifty Five Thousand Forty Nine United States Dollars & Twenty Eight Cents (US$55,049.28) and One Million Forty Five Thousand Liberian Dollars (L$1,045,000.00) contrary to One Million Forty Five Liberian Dollars (L$1,000,045.00) in the first judgment without any proof, all of which are also contrary to the amounts of Four Hundred Thirty Thousand Liberian Dollars (L$430,000.00) and Twenty Five Thousand Eight Hundred Eleven United States Dollars & Seventy Eight Cents (US$25, 811.78) per the indictment.

6. That Your Honor erred in your judgment as the indictment is far different from the evidence adduced for which defendants could have been set free except those who confessed judgment."

The six (6) count bill of exceptions quoted *supra* presents one issue for determination, which is, *"whether the quantum of evidence adduced by the State during trial was sufficient to uphold a guilty judgment against the appellants"?*

Before addressing this issue, we deem it expedient to first address a collateral issue raised by co-appellant Patrick Konuwa in count one (1) of the bill of exceptions regarding the ransacking of his home and the confiscation of his laptop and other vital materials relevant to his defense. A review of the records show that on April 4, 2015, co-appellant filed a three (3) count bill of information wherein he informed the court that at the time of his arrest, the police forcefully entered his home and confiscated valuable items to include his laptop and phones and that the trial court should order the police to return these items immediately. Quoted herein below is the three (3) count bill of information which reads thus:

"INFORMANT'S INFORMATION

AND now comes Informant of the above captioned case and most respectfully prays as follow to wit:

1. That Informant is a peaceful citizen of Liberia, who was arrested by the Respondents, investigated and charged through the Monrovia City Court and later released on bail January 16, 2016.

2. That upon preparation of indictment and a writ of arrest from your court, the Respondents without any right used the writ of arrest from your court and illegally and violently with police brutality entered the premises of Informant, damaged doors and ceilings, took away personal belongings including Dell Laptop, two Tecno phones and Six Hundred United States Dollars (US$600.00) and injured him.

3. That the acts of the Respondents being illegal, they need to be strongly advised to release the Informant, return the items taken away from and repair the doors and ceilings damaged during the illegal entrance unto Informant's premises.

WHEREFORE, and in view of the foregoing, Informant most respectfully prays that Your Honor will order Informant's release without delay, order the respondents to return the items taken away from the Informant, repair his damaged doors and ceilings and to grant unto Informant any and all other relief that Your Honor may deem just, legal and right."

We observed that although the trial court did not pass on this bill of information or determine the veracity of the allegations stated therein, there is no showing that co-appellant Patrick Konuwa for his part made any effort to have this bill of information heard and disposed of neither did he pursue any remedial process for appellate review. Besides, the records show that co-appellant Patrick Konuwa and his witness upon taking the witness stand did not include in his testimony that the police forcefully entered his home and confiscated valuable items that could be used to exonerate him. This allegation against the police stealthily inserted in the bill of exceptions, not being testified to in order to establish proof thereof, is unacceptable in that it is trite law that mere allegations do not constitute proof, but same must be supported by evidence to warrant a court or jury accepting them as true, and to enable the court to pronounce with certainty a decision concerning the matter. We hold therefore that count one (1) of the bill of exceptions being unsupported by the records and requisite evidence to enable this Court make a determination thereon will not be passed upon.

We shall now proceed to address the main issue as stated above, which is whether the quantum of evidence adduced by the State during trial was sufficient to uphold a guilty judgment against the appellants. The Court shall review pertinent facts and the evidence contained in the records in order to answer the issue.

The records in regard to Co-appellant Patrick Konuwa reveal that on April 1, 2016, the State indicted Co-appellant Patrick Konuwa, Account Officer at the J. F. K. Medical Center, for the crimes of economic sabotage, theft of property, money laundering, criminal conspiracy, and criminal facilitation. According to the indictment co-appellant Patrick Konuwa willfully and purposefully colluded and conspired with co-defendants Rabeah Arnous, Benjamin Wlay Dargbe, Thomas Oliver Mezzeh, Thomas G. Telewoyan, and James Ricks, all of whom were also indicted for the same crimes as Patrick Konowa, to steal and convert the total amount of One Hundred Twenty Six Thousand Three Hundred United States Dollars(US$126,300.00) and Sixteen Million Five Hundred Fifty Thousand Four Hundred Sixteen Liberian Dollars Forty Cents (LR$16,550,416.40) from the John F. Kennedy Medical Center.

The records show that co-defendants and Benjamin Wlay Dargbe, Thomas Oliver Mezzeh, Thomas G. Telewoyan, and James Ricks who allegedly conspired and colluded with co-appellant Patrick Konuwa voluntarily admitted to the commission of the crimes stated in the indictment, confessed judgment and subsequently entered plea bargain agreements with the prosecution.

Based upon the above plea bargaining agreement the trial court adjudged co-defendants Benjamin Wlay Dargbe, Jr., Thomas Oliver Mezzeh, Thomas G. Telewoyan, and James Ricks guilty of the crime of economic sabotage, theft of property, money laundering, criminal conspiracy, and criminal facilitation. The Supreme Court has held that:

> "where several persons are proved to have unlawfully conspired to commit a crime, the acts and declarations of any conspirator pending such conspiracy, and in furtherance thereof, are admissible as substantive evidence against any co-conspirator on trial. The same rule is applicable and the same principle controls in the case of an unlawful combination of persons though not necessarily a conspiracy. That is, persons may not conspire to commit a crime, or the prosecution may be unable to prove a conspiracy, but yet, the evidence adduced may show that the persons involved in a crime were acting in concert in the commission of the crime charged. In such case, then, the rule applies that where several persons are proved to have acted in concert in the commission of a crime, and have thus combined for the same unlawful purposes, the acts and declarations of one co-actor in pursuance of the common act or design are admissible against any other co-actor on trial for the crime. Once the conspiracy or combination is established, the act or declaration of one conspirator or accomplice in the prosecution of the enterprise is considered the act or declaration of all, and therefore imputable to all. All are deemed to assent to, or command, what is said or done by anyone in furtherance of the common object.
>
> After proof of the existence of a conspiracy, the acts and declarations of the conspirators in pursuance of the common plan and with reference to the common object are admissible against any member thereof, and the rule is the same regardless of when one becomes a party to such conspiracy. One who joins a conspiracy after its formation is liable as a conspirator just as much as those with whom the conspiracy originated with any party or all of the coconspirator, because every person entering into a conspiracy or common design already formed is deemed in law, a party to all acts done by any of the parties before or afterwards, in furtherance of the common design." Kpolleh et al., v. Republic 36LLR 623, 658 (1990).

We affirm and confirm this principle of law, and hereby hold that the admissions and confessions of co-defendants Benjamin Wlay Dargbe, Jr., Thomas Oliver Mezzeh, Thomas G. Telewoyan, and James Ricks to the all of the crimes as charged in the indictment are substantive evidence admissible against co-appellant

Patrick Konuwa. We shall however proceed further in order to establish whether the prosecution did link co-appellant Patrick Konuwa to the crimes charged in the indictment and to the other co-conspirators.

The records show that the testimonies of all the State's witnesses corroborated the allegations stated in the indictment that Co-appellant Patrick Konowa was the Account Officer of the John F. Kennedy Medical Center; that he was delegated the responsibility of supervising the fiscal department, which responsibility included management of all financial records of the fiscal department at the J.F.K Medical Center, conducting reconciliation of the institution's bank accounts, ensuring that bank balances corresponded with financial records, and authentication of checks and other funds deposited in the institution's accounts which reflected on the bank statements.

The State's witnesses also testified that Co-appellant Konuwa received payments from insurance companies, in the form of checks, for services rendered by the John F. Kennedy Medical Center to patients who were insured by said insurance companies; that said checks were intended to be deposited into designated J. F. K. Medical Center accounts, but Co-appellant Konuwa converted said checks to his personal use and that of his co-conspirators by depositing same in private savings account which had been opened under the fictitious names of John Fred Kennedy and John Franklin Kennedy at the International Bank (Liberia) Ltd. To substantiate this claim, the State produced receipts issued by Co-appellant Konuwa to the insurance companies indicating receipt of the checks he had collected from said insurance companies which were never deposited in the designated accounts of the Center.

Moreover, the witnesses testified that Co-appellant Patrick Konuwa collected subsidy checks issued in favor of the John F. Kennedy Medical Center from the Ministry of Finance Planning and Economic Development; that all these checks were received and signed for by co-appellant Patrick Konuwa but same were never deposited in any of the institution's bank accounts despite the fact that the Government's checks were endorsed "to be deposited in the John F. Kennedy Medical Center account at the Central Bank only". The witnesses testified that instead of depositing the checks in the institution's accounts, Co-appellant Konowa deposited the checks in a personal savings account, also opened under the fictitious name of John Freeman Kennedy at the First International Bank.

Furthermore, the State's witnesses testified that the Co-appellant Patrick Konowa fraudulently requested for cheek books from the Central Bank of Liberia using the forged signature of the Chief executive Officer, Dr. Wannie Scott-McDonald and the Deputy CEO for Administration, Ms. MunaTarpeh; that upon receipt of the check books, Co-appellant Konowa issued several checks to himself and to several of the co-defendants that been indicted along with him *viz.*, Fahn F. Borbor *alias* Henry K. Sambola, Thomas O. Mezzeh, Benjamin Dargbe, and Prince T. Jallah.

The witnesses testified that in order to conceal the scheme, Co-appellant Konowa alter the financial records of the John F. Kennedy Medical Center which show discrepancies and variance from the Central Bank of Liberia and other commercial banks that the J.F.K. Medical Center banked with. In addition thereto, the witnesses testified that Co-appellant Patrick Konowa fraudulently obtained deposit slips of the Central Bank of Liberia purporting to show that actual deposits had been made, whereas no such deposits were reflected on the official bank statements; that Co-appellant Konowa submitted said fraudulent deposit slips to the Cashier of the John F. Kennedy Medical Center who recorded same into the system QuickBooks. The records show that the testimonies of these witnesses were supported by documentary evidence in the form of sundry checks, receipts, fraudulent deposit slips, withdrawal slips, bank-statements and account opening forms all of which were admitted into evidence.

In countering the State's case and its evidence, co-appellant Patrick Konuwa produced two witnesses in person of himself and a subpoena witness from the J.F.K Medical Center, William Kruah, interim supervisor of the Fiscal Department. Co-appellant Patrick Konuwa testified that he was never the supervisor of the Fiscal Department as alleged by the State; he further denied receiving the checks that the State admitted into evidence, same being the checks that the State alleged he had collected from the Ministry of Finance, Development & Planning (MFDP) and the insurance companies; he also denied the issuance of checks in his name and that of the other co-defendants. He testified that all checks issued to the J.F.K Medical Center were for services duly rendered; that the checks were recorded in a log book and that at all times the John F. Kennedy's Chief Finance Officer or the Deputy for Administration was in control of the Fiscal Department.

Co-appellant Patrick Konuwa's lone witness, Mr. William Kruah, upon the taking the witness stand did not provide any relevant testimony to disprove the allegations of the crimes levied by the State against the co-appellant. The records show that besides testifying to a ledger that was subpoenaed by the co-appellant, the witness did not give any testimony to exonerate the co-appellant of the charges in the indictment, neither did he deny the testimony rendered by the State witnesses. Our Civil Procedure and case laws provide that:

"all evidence must be relevant to the issue, that is, it must have the tendency to establish the truth or the falsehood of the allegations or denials of the parties." Civil Procedure Law, Rev Code 1:25.4; *Massaquoi et al., v. Dennis* 40LLR 698, 704 (2001); *Yates & Brown v. Republic*, Supreme Court Opinion, October Term A.D. 2015. Witness William Kruah's testimony being irrelevant to the case, the said testimony cannot be accorded any credibility.

The Supreme Court has held that *"the uncorroborated testimony of a criminal defendant is insufficient grounds to authorize reversal of a judgment of conviction and that a defendant will not be set free on the strength of his lone testimony especially where two or more witnesses have testified against him."Fallah v. Republic,* Supreme Court Opinion March Term 2011; *Yates & Brown v. Republic*, Supreme Court Opinion, October Term A.D. 2015.

In addition to the insufficiency of Co-appellant Patrick Konuwa's defense, the records show that the State produced four (4) rebuttal witnesses and two (2) recalled witnesses who refuted the co-appellant's testimony by testifying that Co-appellant Patrick Konuwa did supervise the fiscal department; that he received the checks admitted into evidence; that he fraudulently obtained check books from the

Central Bank of Liberia, and that he issued checks in his name and the names of other defendants.

The testimonies of the State's witnesses, in addition to the confessions of co-defendants Benjamin Wlay Dargbe, Thomas Oliver Mezzeh, Thomas G. Telewoyan, and James Ricks who admitted to conspiring and colluding with co-appellant Patrick Konuwa, proves that the co-appellant did conspire and facilitate the commission of the crimes as charged. We hold therefore that the State did prove beyond a reasonable doubt that Co-appellant Patrick Konuwa in particular, and the other co-defendants willfully and purposefully stole and converted the total amount One Hundred Twenty Six Thousand Three Hundred United States Dollars (US$126,300.00) and Sixteen Million Five Hundred Fifty Thousand Four Hundred Sixteen Liberian Dollars Forty Cents (L$16,550,416.40) from the John F. Kennedy Medical Center.

We shall now consider the evidence as they relate to Fahn F. Borbor, the other co-appellant.

The State produced documentary and testimonial evidence to show that Fahn F. Borbor colluded with Co-appellant Patrick Konuwa to open personal saving accounts in Liberian Dollars and United States Dollars under the pseudo name of 'John Fred Kennedy' at the International Bank Liberia Limited (IBLL); that the said Liberian Dollars and United States Dollars personal savings accounts opened by co-appellant Fahn F. Borbor, *alias* John Fred Kennedy, bore account numbers 10-2030-141579-02 and 10-2030-141579-01 respectively. The indictment further alleged that co-appellant Patrick Konuwa received Four Hundred Thirty Thousand Liberian Dollars (LR$430,000.00) from the Medicare Insurance Inc., as payment for services rendered by the J.F.K Medical Center to patients insured under Medicare's insurance scheme; that said money was intended for deposit into J.F.K Medical Center account, but same was diverted and deposited by Co-appellant Konuwa into the John Fred Kennedy Liberian Dollars personal saving account owned and operated by Co-appellant Fahn F. Borbor; that Co-appellant Konuwa also deposited Twenty Five Thousand Eight Hundred Eleven Dollars Seventy Eight Cents (US$25,811.78) into the John Fred Kennedy United States personal savings account, also owned and operated by Co-appellant Fahn F. Borbor; that Co-appellant Fahn F. Borbor withdrew Four hundred Twenty Nine Thousand Eight Hundred Liberian Dollars(LR$429,800.00) and Twenty Five Thousand Seven Hundred Seventy Three United States Dollars(US$25,773.00) from both the John Fred Kennedy Liberia Dollar and United States Dollars personal savings accounts respectively, converted same to his personal use and benefit.

The indictment also alleged that upon obtaining check books from the Central Bank of Liberia through fraudulent designs, co-appellant Patrick Konuwa issued several checks in favor of Henry Sambolah, one of the aliases of Co-appellant Fahn F. Borbor.

In substantiation of the allegations against Co-appellant Fahn F. Borbor stated in the indictment, the State produced testimonial and documentary evidence to prove that co-appellant Fahn F. Borbor, impersonated as John Fred Kennedy, opened personal savings accounts at the International Bank (Liberia) Limited; that his real name and identity were traced to a social media-network, Facebook, where his photo attached to the bank's account form were match to his Facebook account; that the said co-appellant is a friend of Co-appellant Patrick Konuwa evidenced by their 'Facebook' connection which indicated that the two co-appellants were indeed friends.

In countering the State's case, co-appellant Fahn F. Bobor denied the charges and the allegations, and testified that he has no knowledge of the saving accounts subject of these proceedings; that he has no knowledge of the checks issued by co-in his favor by co-appellant Patrick Konuwa; that his photo was fraudulently used to open the personal savings accounts at International Bank (Liberia) Limited in order to incriminate him. Co-appellant Fahn F. Borbor's lone witness Mitchell Worjloh who took the stand as an expert in Information Technology only demonstrated to the trial court on how images (photos) can be manipulated through improved technologies available on the internet and other computer program. The witness however did not provide any proof as to whether or not the co-appellant photo was indeed manipulated or how it was manipulated neither did he provide any evidence exonerating co-appellant Fahn F. Borbor from the charges levied against him. We observe that besides merely asserting that he had no knowledge of the checks issued to him by Co-appellant Patrick Konuwa, Co-appellant Fahn F. Borbor did not give any evidence disconnecting him from the other co-conspirators neither did he deny the allegation that the change to his identity to Henry Sambolah was manipulated.

The records show that this uncorroborated testimony of co-appellant Fahn F. Borbor was rebutted by State's witness, Kebbeh Feika, the Client Service Manager of International Bank (Liberia) Limited testified that there was no manipulation with the photo of co-apellant Fahn F. Borbor; that the bank policy required that account holders themselves, present two passport-size photo and a valid ID card to the banks' customer service before their accounts are opened; and that co-appellant complied with all these requirement before the personal savings accounts were opened in the name of John Fred Kennedy.

We restate, that *"where damning testimony has been placed on the records against a criminal defendant, unless rebutted such will constitute a prima facie evidence of the fact."Cisco et al. v RL*, Supreme Court Opinion, October Term 2016;*Yates et al. v RL,* Supreme Court Opinion, March Term 2016; *Davies, v. Kontoe et al,* Supreme Court Opinion, October Term 2008. Co-appellant Fahn F. Borbor having failed to disprove the charges in the indictment and the damning testimonies rendered by State witnesses regarding his conspiratorial role, we hold that the State did establish a prima facie case against co-appellant Fahn F. Borbor.

Now, although we are in agreement with the guilty judgment against Co-appellants Patrick Konuwa and Fahn F. Borbor, we however disagree with the portion of the trial judge's ruling adjudging the appellants guilty of second degree felony, and excluding the crime of economic sabotage, a first degree felony. As earlier stated, it is the law, that when multiple crimes are charged in a single prosecution, and the defendants are found guilty of all, the penalty of the highest crime charged shall prevail. In the present case, the crime of economic sabotage, a felony of the first degree, being the highest of the multiple crimes with which the defendants were convicted, they should have been sentenced for the crime of economic sabotage which carries a maximum term of imprisonment of ten (10) years.

The trial judge therefor erred when he adjudged the defendants guilty and sentenced them to the lesser offenses.

WHEREFORE, and in view of all that this Court has narrated herein above, and this Court, being the guardian of the law and the final arbiter authorized by law to exercise final appellate review of both law and fact, and to review, modify, correct, or enter the judgment the trial court should have entered, hereby confirms and affirms the final judgment of the trial court but, with the following modifications:

- that the sentence of five (5) years imposed on appellant Patrick Konuwa is hereby increased to nine (9) years and the sentence of five (5) years imposed on Fahn F. Borbor, is also increased to eight (8) years. Patrick Konuwa is hereby ordered to restitute the amounts of Thirteen Thousand Three Hundred Twenty Three United States Dollars & Ninety-One Cents (US$13,323.91) and Fifteen Million Eight Hundred Seven Thousand Ninety-Four Liberian Dollars & Forty Cents (L$15,807,094.40). Fahn F. Borbor is ordered to restitute the amounts of Fifty Five Thousand Forty-Nine United States Dollars & Twenty Eight Cents (US$55,049.28) and one Million Forty Five Thousand Liberian Dollars (L$1,045,000.00).

- that the sentence of two (2) years imposed on Co-defendant James Ricks is increased to eight (8) years and he is ordered to restitute the amounts of Four Thousand Nine Hundred United States Dollars (US$4,900.00) and Fifteen Million Seven Hundred Seventy Four Thousand Liberian Dollars (L$15,774,000.00).

- that Co-defendant Rabeah Arnous, is sentenced to one (1) year imprisonment and ordered to pay a fine of Eight Thousand United States Dollars (US$8,000.00) as a deterrent, in keeping with Section 50.10 (3)(b) of the Penal Law.

- that in consideration of their cooperation with the State leading to the successful prosecution of this case, and the recommendation by the State for mitigation of sentence, Co-defendants Thomas O. Mezzeh and Benjamin Wlay Dargbeh Jr., are hereby sentenced to imprisonment of six (6) years each, four and a half of which are suspended. Thomas O. Mezzeh is ordered to restitute the amount of Eight Thousand Five Hundred Twenty Five United States Dollars (US$8,525.00); and Benjamin Wlay Dargbeh Jr., ordered to restitute the amount of Nineteen Thousand Two Hundred Eighteen United States Dollars (US$19,218.00). In keeping with section 34.4 of the Criminal Procedure Law which states that *"a sentence of imprisonment shall commence to run from the date on which the sentence imposed is final"*, we hereby mandate that the sentences of imprisonment imposed on the co-defendants and appellants shall reflect the period of imprisonment already served.

The Clerk of this Court is hereby ordered to send a Mandate to the court below to resume jurisdiction over this case and give effect to this Opinion. It is hereby so ordered.

When this case was called for hearing, no counsel appeared for the appellants. Counsellors Betty Lamin Blamo, Solicitor General, Republic of Liberia, J. Daku Mulbah, County Attorney, Montserrado County, Augustine Fayiah, Assistant Minister of Justice for Litigation, and Jerry T. K. Galawolu, Legal Counsel, Ministry of Justice, appeared for the appellee.