

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2026

BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SRCHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEANEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: BOAKAI N. KANNEH.....ASSOCIATE JUSTICE

Joe T. Lee and Robert G. Karr of Mt. Barclay Community,
Montserrado County, Republic of Liberia.....Appellants)

Versus

) APPEAL

)
Republic of Liberia by and thru Apu Richard Sall of Sand Beach
Community, Republic of Liberia.....Appellee)

GROWING OUT OF THE CASE:

)
Republic of Liberia by and thru Apu Richard Sall of Sand Beach
Community, Republic of Liberia.....Plaintiff)

Versus

) FELONIOUS RESTRAINT
) MISAPPLICATION OF
) ENTRUSTED PROPERTY
) DEFRAUDING SECURED
) CREDITORS AND
) CRIMINAL MISCHIEF

Joe T. Lee and Robert G. Karr of Mt. Barclay Community,
Montserrado County, Republic of Liberia.....Defendants)

Heard: June 15, 2026

Decided: August 27, 2026

MR. CHIEF JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This matter we are called to decide today borders on the appellants' challenge to a ruling rendered by the Bensonville Magisterial Court which was affirmed by the Criminal Court Assizes "C" for Montserrado County.

Joe T. Lee and Robert G. Karr, appellants herein have challenged the ruling of the magisterial court which was affirmed by the circuit court adjudging Co-appellant Robert G. Karr and Co-appellant Joe T. Lee guilty for the crimes of Felonious Restraint, Misapplication of Entrusted Property and Criminal Mischief. Co-appellant Robert G. Karr was sentenced to five-month imprisonment and a fine of Two Hundred United States Dollars (US\$200.00), while Co-appellant Joseph T. Lee was sentenced to Eleven Months imprisonment and a fine of Five Hundred United States Dollars (US\$500.00) and order to restitute the amount of One Hundred United States Dollars (US\$100.00).

The appellants have urged us to overturn this ruling arguing that the ruling is contrary to the law and the evidence presented during trial.

Before going further, it is necessary to recount the relevant facts of this controversy.

The facts revealed that a writ of arrest was issued by the Bensonville Magisterial Court against the appellants for the crimes of Felonious Restraint, Misapplication of Entrusted Property, Defrauding Secured Creditor and Criminal Mischief on April 28, 2025 and same was served on the appellants on May 1, 2025.

The private prosecutrix complained that they lost their relative in March of 2019 and after family meetings and consultations decided to have their relative buried at the Nimba United Cemetery; thereafter, three grave spots were purchased on behalf of the Richards family from the Nimba United Cemetery; that thereafter, the family constructed a fence on the three grave spots and buried their deceased relative on one of the spot and left two spots within the fence for future use; that their spots were intact until March of 2023, when upon going at the cemetery, they discovered that the appellants had encroached on portion of the grave site owned by them and had buried someone else in the fence on the grave spot that they purchased and also destroyed the fence and even built a palaver hut on the said grave spot; that the matter was reported to the commissioner of the township office and that after series of conferences and meetings, the matter could not be resolved amicably which prompted the filing of the complaint before the Bensonville Magisterial Court.

The complaint in the writ of arrest stated that the appellants herein with no color of right, since 2023 to present have restrained or stopped the private prosecutrix from going to the gravesite; that co-appellant Joe T. Lee was entrusted with the property of the private prosecutrix but opted to sell the said grave site to another person, while being fully informed that the said grave site was not his, and that co-appellant Robert G. Karr damaged the private prosecutrix blocks valued at One Hundred United States Dollars (US\$100.00).

After the formalities that are required before the commencement of trial, the matter was ruled to trial.

After the presentation of oral testimonies and documentary evidence by both sides, the magisterial court ruled adjudging the appellants guilty for the crimes of felonious restraint, misapplication of entrusted property and criminal mischief. The appellant excepted and announced an appeal to the circuit court. The trial judge upon entertaining arguments and examining the evidence, ruled affirming the ruling of the magisterial court.

Our jurisprudence is clear that in order to affirm a guilty verdict, the allegation against the defendants must be proven beyond reasonable doubt and that if there is any doubt after the presentation of evidence, it must lead to the acquittal of the accused. *Criminal Procedure Law, Rev. Code 2:2.1.; Davis v R.L.* 40 LLR 659, 675, 676 (2001).

In order to affirm or reverse the ruling of the trial court, we must peruse the records thoroughly and examine the facts and evidence of this matter.

As we have already stated the facts, we now move to review the evidence both oral and documentary that was presented during the trial.

The private prosecutrix testified for the state and during her testimony, she explained that she purchased and received receipts from one Jackson Dorbor for three burial plots in 2019 and that one of the plot was used to bury her father and the remaining two plots along with the one her father was buried on were placed in a short brick fence with the intention of preserving the burial plots; that in 2023, her brother called her and informed her that the reserved two burial plots were sold and used; thereafter, in March of 2025, during decoration, she went to the grave site and realized that her brother was right about the burial plots being sold and used by a different person; that she realized that the place was sold by Co-appellant Joseph T. Lee to Robert G. Karr and the Karr family and that the burial plots were damaged by Co-appellant Robert G. Karr; that she did not have access to her father's grave and the burial plots; that a heavy confusion broke out between the Richards family and Co-appellant Robert G. Karr after a talk with co-appellant Karr that did not go well, co-appellant Karr walked out the meeting, thereafter, the witness testified that she then met co-appellant Robert T. Lee who give the witness and the Richard family his word that "he will open the space so that she and the family can have access to their father's grave"; that when the matter could not be settled by Robert and Joseph, the matter was taken to the Commissioner's office and, after an investigation conducted by the Commissioner's office, the office tendered a report recommending that the bannister that was blocking the walkway to the burial plots should be removed in order for the Richards to have access to the burial plots; however co-appellant Robert G. Karr refused on grounds that he and his family spent too much money and as such will not agree to remove the bannister; the witness further testified that she was continuously denied access to the grave and that the construction of the Karr's grave and the enclosed palava hut placed around the Karr's grave and the bannister also prevented them from reaching the grave.

The defense tried to counter this testimony. Co-appellant Karr on the witness stand testified that his late father and the late father of the private prosecutrix graves are close by but that he did not see the Richard's burial plot enclosed by a fence, bannister or any other enclosure.

However, the appellant second witness, Ms. Rachel Karnuah, who is the widow of the co-appellant's father, during her testimony contradicted this testimony of the co-appellant. When asked during her testimony if she saw a grave next to the grave site that co-appellant Joseph T. Lee cleared, the witness provided the following answer: "*I saw a fence right next to the grave site that Joseph T. Lee (co-appellant) sold to me.*"

This testimony of appellants' second witness clearly contradicts the testimony of co-appellant Robert G. Karr and goes to show that the appellants' testimony lacks corroboration.

During the trial, co-appellant Joseph T. Lee also testified and we now move to examine his testimony. During his testimony, the co-appellant provided the following answers to the following questions posed to him:

Q: Mr. Witness, what is your relationship with the Nimba United Cemetery?

A: I worked with the past commissioner as tax collector. I serve as inspector and manager of the cemetery.

Q: Mr. witness, when did you become Manager for the cemetery?

A: I became manager for the cemetery from 2016 to present.

Q: Mr. Witness, if you had knowledge that the spot you sold to the Karr's family was sold by previous management, would you have sold it again?

A: No.

On the cross, the witness was asked the following questions:

Q: Mr. Witness, as an inspector and manager for the Nimba United Cemetery, are you informed before any purchase of grave site is made?

A: Yes.

In responding to the court's questions, co-appellant Joseph T. Lee was asked these questions and provided these answers:

Q: Mr. witness, do you know and have you interacted with Thomas Tamba?

A: I know him and I have interacted with him.

Q: Mr. witness, witness Thomas Tamba said in his testimony that in 2019 when he transacted with Tyson Dorbor, a Leadership team of Joseph Sopoe, Samuel Gbor and Edmond Cheeks was in place. Do you know these people?

A: Yes.

Q: Mr. witness, witness Thomas Tamba said that you knew about the three (3) burial plots paid for by the Richards. Is this true?

A: No.

Q: Mr. witness, witness Thomas Tamba said and I quote "Joe Lee and I were working together". Is this statement true?

A: Yes

Q: Mr. witness, in 2019 who was in charge of giving out burial plots?

A: Marie Borbor, Samuel Gbor, Edmond Cheeks, David Curry and Theo Jackson.

Q: Mr. witness, Joseph B. Sopoe said that he served as graveyard Supervisor from 2018 upward. Were you connected to that cemetery during that period?

A: Yes, I was in Mount Barclay while Joseph Sopoe was in Johnsonville.

Q: Mr. witness, witness Joseph B. Sopoe testified that on many occasions, he was called by Samuel Gbor, Marie Borbor and Edmond Cheeks and was informed by them that you, Joseph T. Lee (co-appellant) is in the constant habit of carrying gangsters to the cemetery which was headed by Samuel Gbor to get money from the leadership team, and on so many occasions they had called that Joseph T. Lee and his gangsters are forcibly executing first flight (quick burial) at Nimba United grave site, and usually I call the Liberia National Police to handle the issue. Please comment on this allegation against you by witness Sopoe?

A: That allegation is not true.

Q: Mr. witness, Samuel Gbor, whom you say controlled the Nimba United Cemetery in 2019, testified that: "It was not Joe Lee's (co-appellant's) right to sell it (the three Richards plots). I left the cemetery and I do not know whether Joseph Lee sold the plots that Thomas sold to Dorbor." Did you sell the three (3) Richards plots that Thomas sold to Dorbor?

A: No.

Q: Mr. witness, witness Apu Richards Sall testified that "In my presence Mr. Lee said he sold the place to the Karr's family." Is this statement true?

A: Yes, I sold to the Karr family because the plots were vacant.

Q: By that answer, do you know anything about the construction of the Karr's family tomb?

A: Yes, I know.

Q: Mr. witness, a follow up question was asked to Madam Rachael Karnuah on the witness stand, "did you see a grave right near the grave plots that Joseph Lee sold to you and she answered: I saw a fence right near the grave spot Joseph T. Lee sold to me", which fence was witness Karnuah referring to?

A: The fence contains more than 12 grave plots.

Q: Mr. witness, you testified that you were manager for the Nimba United Cemetery since 2016 up to present, am I correct?

A: No.

Q: Mr. witness, did you work alongside Thomas Tamba in 2019?

A: No.

Q: Mr. witness, as manager for the cemetery since 2016, do you know of the practice of reserving grave plots?

A: Yes.

Q: Mr. witness, by that answer, were you ever involved in reserving grave plots from 2016 up to present?

A: Yes.

Q: Mr. witness, you testified that you never knew the spot that you sold to the Karr family was previously sold to another person by the past management, kindly tell this court which past management you are referring when the Richards purchased their three (3) plots in 2019 and you have been manager since 2016?

A: The past management was Marie Borbor, Samuel Gbor, Edmond Cheeks, David Curry and Emmanuel Johnson.

Q: Mr. witness, was the Karr's tomb and palava hut constructed on one or two grave plots?

A: It was two plots, two feet basement.

Q: Mr. witness, you testified that you became manager for the cemetery from 2016 up to the present. This statement was made by you during your testimony on the direct and on the redirect, you are said you became manager in 2020, which statement should we believe?

A: 2020.

On direct examination, the appellant's third witness, one Edwin J.C. Gborveth was asked the following questions and he provided the following answers:

Q: Mr. Witness, who was manager for the cemetery in 2018?

A: It was David Curry and Theophilus Jackson in 2018. In 2019, Joseph T. Lee was there as the supervisor of the cemetery.

Q: Mr. witness, did you at any point in 2019, as inspector of the Township hear or saw Joseph T. Lee (co-appellant) selling grave spots?

A: Yes.

In responding to court's questions subpoenaed witness David Curry was asked these questions and provided these answers:

Q: Mr. witness, if you can recall were you the supervisor at the Nimba United Cemetery in April of 2019?

A: No, I left February 2019.

Q: Mr. witness, do you know who took over as supervisor after you left?

A: Yes, it was Samuel Gbor.

Q: Mr. witness, you spoke about the involvement of Joseph Sopoe at the Nimba United Cemetery that led to your removal from there in early 2019. Was Joseph Sopoe an official at the Commissioner's office?

A: Yes

Q: Mr. witness, if you can recall, was Joseph T. Lee (co-appellant), associated with Nimba United Cemetery?

A: Yes, not directly.

In response to court's questions, subpoenaed witness Edmond Cheeks was asked questions and provided these answers:

Q: Mr. witness, did you at any point in time have any connection with the Nimba United Cemetery?

A: Yes, I had connection with the Nimba United in 2019.

Q: Mr. witness, by that answer, what role did you play at the Nimba United Cemetery in 2019?

A: In 2019, I was serving as General Secretary of the Nimba United Cemetery.

Q: Mr. witness, in 2019, who was the chairman of the Nimba United Cemetery?

A: Prior to our taking over, we met David Curry. During our ascendancy at the Nimba United Cemetery, I was working under the Senior Elder Samuel Y. Gbor.

Q: Mr. witness, in 2019 did you interact, work along or have any connection with Joseph Sopoe at the Nimba United Cemetery?

A: I had very strong relationship with Joseph Sopoe, because before our taking over of the cemetery, Joseph Sopoe told us that he was directly from the Commissioner's office and I knew he was from the Commissioner's office. He also served as our boss because we relate to him and he relates to the Commissioner.

Q: Mr. witness, by that answer, do you know or have interacted with one Thomas Tamba in 2019?

A: Before taking over the cemetery in 2019, we met Thomas there as head of contractor to construct graves and tombs.

In response to Court's questions, subpoenaed witness Oliver Varney was asked these questions and provided these answers:

Q: Mr. witness, as former commissioner of Johnsonville Township, what was your connection to the Nimba United Cemetery?

A: In 2020, I came out with my own team that was led by Joseph T. Lee (co-appellant).

These testimonials as provided above establish that co-defendant Joseph T. Lee held positions of authority at the Nimba United Cemetery during the period relevant to the Richards family's, 2019 purchase of three grave plots. Although the co-appellant Joseph T. Lee attempted to deceive the court by revising the dates of his managerial tenure at the Nimba United Cemetery, multiple witnesses, including the co-appellant himself, former Commissioner Oliver Varney, and cemetery officials Edmond Cheeks and David Curry, they all confirmed that the co-appellant exercised supervisory or managerial functions between 2016 and 2023; assuming he took management of the cemetery after the appellee purchased and reserved the site, it still doesn't shield co-appellant Lee as he was under duty to protect and honor purchases made before his tenure as further evidence demonstrates that the cemetery maintained an established policy of reserving and protecting grave plots, a policy co-appellant Lee admitted he knew of and participated in enforcing. Witnesses Thomas Tamba and Edmond Cheeks testified that the Richards family purchased three plots in 2019, two of which were reserved and enclosed by a fence, and that Lee was aware of these

reserved plots. Despite this knowledge, Lee sold those same reserved plots to the Karr family in 2023, a fact he openly acknowledged.

The co-appellant Lee's credibility was significantly undermined by his inconsistent statements regarding his managerial tenure, his interactions with cemetery personnel, and his knowledge of prior transactions. These contradictions were directly refuted by multiple witnesses who confirmed his involvement in cemetery operations and his awareness of the Richards' reserved plots. Given his managerial role, Lee owed a fiduciary duty to safeguard reserved grave plots and to honor prior lawful transactions executed by his predecessors. The principle is well-settled that a successor cannot undo or disregard the lawful acts of prior management. Lee's failure to conduct due diligence, his disregard of the reservation policy, and his sale of the Richards' reserved plots for personal financial gain constitute a clear misapplication of entrusted property. Accordingly, the testimonial evidence supports the conclusion that Joseph T. Lee is culpable and legally responsible for the offense of Misapplication of Entrusted Property.

We now move to determine whether the trial court erred when it affirmed the magisterial court's findings that the appellants are guilty of Criminal Mischief.

Our Penal Law creates three categories for the crime of Criminal Mischief, they are: (a) *Damages to tangible property of another purposely or recklessly; (b) damages tangible property of another negligently in the employment of fire, explosives, or other dangerous means listed in section 15.4 (i); (c) purposely or recklessly tempers with tangible property of another so as to endanger person or property.*

We now examine the testimonies of witnesses and contents of the case file to make a determination.

Co-appellant Joseph T. Lee again on the witness stand was asked the following questions to which he provided the following answers:

Q: Mr. witness, this question was posed to Madam Rachael Karnuah, while she was on the witness stand: "madam witness, you stated in your testimony that grave plots were sold to you by Joseph Lee and he brushed it." is this statement true?

A: Yes

Q: Mr. witness, who constructed the tomb and palava hut on the burial site for the Karrs?

A: They were constructed by Abraham Cooper and Jonathan Welleh.

Q: Mr. witness, was the Karr's tomb and palava hut on one or two grave plots?

A: It was two plots, two feet basement.

The record further reflects that during his direct examination, witness Tyson Dorbor testified that he paid for three grave plots belonging to the Richards family and personally supervised the construction of the graves and the fencing enclosing those three plots. The case file also contains still photographs depicting the damaged fence surrounding the Richards' reserved plots. These photographs, when considered alongside testimonial evidence, establish that the fence enclosing the Richards' three purchased plots were indeed damaged or destroyed. The testimonies show that Joseph T. Lee identified, brushed, and sold two of the Richards' reserved plots to the Karr family. Lee also admitted that he oversaw the construction of the Karr family's tomb, palava hut, and bannister, structures erected directly on the two reserved plots previously purchased and fenced by the Richards. By simple inference, the construction of these structures required the removal, damaging, or destruction of the existing low fence enclosing the Richards' plots.

Given that Lee acted in his capacity as manager of the Nimba United Cemetery during this period, and that the construction he supervised could not have proceeded without dismantling the Richards' fenced enclosure, the evidence supports the conclusion that the destruction of the fence occurred under his authority and direction. Accordingly, based on the combined testimonial and photographic evidence, co-defendant Joseph T. Lee is culpable and guilty of the offense of Criminal Mischief.

It is the law in this jurisdiction that this Court, is clothed with the authority to enter judgment that the trial court should have entered. *The Management of the United States Trading Company (USTC) v. Richards*, 41 LLR 205, 210 (2002).

Relying on this law, we note from the facts that, co-appellant Joe T. Lee, as manager of the Nimba United Cemetery knew or had reasons to know that the plot in question was owned by the appellee herein but proceeded to sell same to co-appellant Robert G. Karr and his family and this act by co-appellant Joe T. Lee is contrary to our laws and can be characterized as criminal conveyance under our laws; moreover, co-appellant Robert G. Karr and his family have already buried their loved one on the plot, thereby denying the appellee and her family the perpetual usage of the said plot that is owned by the appellee and her family.

Therefore, it is our considered opinion that criminal mischief being the highest crime herein which supersedes the other crimes charged herein, Co-appellant Joe T. Lee sentence is

hereby modified to a period of Twenty-Four (24) Months and is hereby ordered to restitute the amount of Five Thousand United States Dollars (US\$5,000.00) to the private prosecutor for the two grave plots that he sold to Co-appellant Robert G. Karr and for the damage done to the grave plot, while Co-appellant Robert K. Karr is sentence to five months in prison and is hereby ordered to restitute the amount of Ten Thousand United States Dollars (US\$10,000.00), to the private prosecutor because he knew or had reasons to know that the land was encumbered as the place was in fence when he was buying same. (he had reasons to know when he was buying the place as it was in fence).

As the evidence and the facts in this case are without doubt, we need not dwell on the said issue unnecessarily but affirm the ruling of the lower court with the modifications herein and we so hold.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the lower court is affirmed but with the above modifications. The Clerk of this Court is ordered to send a Mandate to the court below, commanding the judge presiding therein to resume jurisdiction and give effect to this Judgment. IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS JOSEPH D. DEBBLAY, DIRECTOR OF PUBLIC DEFENSE AND WILLIAM T. MOORE JOHNSON (PUBLIC DEFENDER) APPEARED FOR THE APPELLANTS. COUNSELLOR AUGUSTINE C. FAYIAH, SOLICITOR GENERAL, REPUBLIC OF LIBERIA IN ASSOCIATION WITH FESTUS K. NOWON OF THE UNIVERSAL LAW PARTNERS APPEARED FOR THE APPELLEE.

Affirmed.