

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

Versus

GROWING OUT OF THE CASE:

Versus

Decided: February 7, 2020

On October 20, 2016, vehicles being operated by, the appellant, Mohammed Sesay and the appellee, Lassanah, Kamara were involved in an accident on the Airfield, Wroto Town Junction. The vehicle of the appellant, a white Mitsubishi pick-up bearing license plate No. A-60565 was driving towards an intersection adjoining a main through highway. The appellee's vehicle, a white Toyota bus bearing license plate No. B-1 was proceeding on the main through highway.

The police was notified of the accident and dispatched Sergeants Julius Gador and Irene K. Paypay of the Traffic Division of the Liberia National Police (LNP) who proceeded to the accident scene, conducted an investigation, prepared diagrams and submitted same to the Office of the Traffic Accident Investigator. On October 24, 2016, and after the parties provided their individual statements at the same venue, that is the Office of the Traffic Accident Investigator, Sgt. Christophena Doe found the appellant in violation of section 10.4 of the Vehicle and Traffic Law. Section 10.4 of the Vehicle and Traffic Law provides:

“any person who operates a vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. A person who violates the provisions of this section shall be subject to a fine of not more than \$500 or imprisonment for not more than six months, or both.”

The appellant objected to the police's findings and the case was forwarded to the Monrovia City Traffic Court presided over by Judge Jomah S. Jallah for hearing. Trial commenced on November 10, 2016, at which time the counsel representing the appellant made a submission requesting for a reconstruction of the accident. The appellee having interposed no objection, the traffic judge granted same, and ordered the Chief of Traffic, Liberia National Police to reconstruct the accident and submit his/her findings to the court on or before November 14, 2016.

In compliance with the court's order, the Traffic Division of the Liberia National Police designated its Chief Accident Investigator, Supt. Fred Gaye, and its Accident Investigator, Sgt. Edward B. Hoff who conducted the reconstruction and submitted the following report to the traffic court:

“Republic of Liberia
Headquarter of the Liberia National Police
Ministry of Justice
Monrovia, Liberia

To: ACP/J. Patrick Smith, Sr.
Chief of Traffic LNP/MOJ/RL

Sir:

Sub: Road Traffic Accident Reconstruction Investigative Report

On Thursday afternoon October 20, 2016, at 13:00 p.m., an accident occurred along the Airfield Wroto Town road, involving a white Mitsubishi pick-up marked with plate #: **A-60565** operated by Mr. Saysay Mohammed, male, 45 yrs. of age, of the Mandingo tribe, and a of resident of Sinkor, Old Road and owned by the UN Drive Super Market situated at Via Town, Bushrod Island, and insured by the Omega Insurance Company, and a white Toyota bus marked with plate #: **B-1**, operated by Mr. Lassana Kamara, male, 27 yrs. of age, of the Mandingo tribe, a resident of Jacob Town, Somalia Drive and owned by Mr. Jallah Kamara of the same address.....

On Thursday, November 17, 2016 at 9:42 a.m., the parties along with the initial investigator, the challenger insurance company and the current investigator all arrived at the scene and were told the below information.

1. That the accident occurred along the Airfield Wroto Town intersection.
2. That the road runs from North to South, and West to East.
3. That two vehicles were involved that is A-60565 & B-1.
4. That the both vehicles were traveling from separate directions.
5. That B-1 was traveling from North to South, while A-60565 was traveling from West to East.

6. That the accident was investigated and A-60565 was held liable but refused the police decision and requested for reconstruction of the accident case, which was granted by the traffic Judge, His Honor Jomah Jallah.
7. Again, on the above mentioned date, we all proceeded to the scene of the accident and did the sketch.
8. That A-60565 admitted travelling from East to West while B-1 also agreed travelling from North to South.
9. That after the investigation at Salem A-60565 challenged the Police decision and said matter was sent to court.
10. That A-60565 who was inattentive recklessly entered the intersection and collided with B-1, thus causing damage to the right head light bumper, entire front windshield, and left front door etc.
11. The photo copies of their driver licenses insurance and written statements are attached for your plain view.
12. In view of the above, the operator (Mr. Mohammed Saysay) of A-60565 was held liable initially and is still liable for the occurrence of the accident and is duly charged with the traffic offence of sections 10.4 and 10.43 which state: That the driver entering a stop intersection shall stop as required by section 10.57 of this title in obedience to a stop sign or signal erected at the entrance to an intersection; whether or not the intersection road is a through highway, and he shall proceed into the intersection with caution, yielding the right of way to any vehicle required to stop which is within the intersection or approaching so closely as to constitute an immediate hazard.

Signed: _____

Sgt. Edward B. Hoff
Accident Investigator
LNP/MOJ/RL

Ack: _____

Supt. Fred Gaye
Chief Accident Investigator
LNP/MOJ/RL

Attested: _____

C/Supt. Alphonso D. Binda
Deputy Chief of Traffic for Administration
LNP/MOJ/RL"

During the trial, the appellee testified on his own behalf, but subpoena Sgt. Edward B. Hoff, one of the LNP officers who participated in the reconstruction exercise. The appellee testified that on the date of the accident that is, on October 20, 2016, while driving on the main highway leading into the Airfield Community, the appellant came from the intersection of the Airfield short-cut road, entered the main highway and collided with his vehicle. The appellee's subpoena witness, Sgt. Edward B. Hoff, testified that the findings of the reconstruction report holding the appellant liable for the accident is supported by the fact that the appellant failed to yield the right of way when he entered the highway from an intersection which is a violation of sections 10.42, 10.43, and 10.57 of the Vehicle and Traffic Law.

On December 28, 2016, after the appellee rested *in toto* with his evidence, the appellant made a submission on the court's records requesting a judgment of acquittal on grounds that the appellant failed to prove a *prima facie* case. The appellee for his part, in resisting the submission asserted that he did produce sufficient evidence to prove his case and that the appellant's submission was only intended to delay the case. On the same date, in his ruling on the submission and the resistance thereto, the traffic judge denied the appellant's submission and ordered the appellant to produce evidence in order for the court to review the evidence from both sides. To this ruling of the Judge, the appellant only registered his exceptions, but did not pursue any remedial process to review the traffic judge's interlocutory ruling.

Our Criminal Procedure Law provides that: "...the court on motion of a defendant or of its own motion shall order the entry of judgment of acquittal of one or more offenses charged in the indictment after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or offenses...." Criminal Procedure Law, 2:20.10. The Supreme Court in giving interpretation to this provision of the Statute held that:

"the granting or denial of a motion for judgment of acquittal is left to the sound discretion of the court, and may be granted where the evidence is legally insufficient to sustain the charge; but the court may also, in its discretion, reserve decision on the motion until after the verdict..." *Chakpadeh v. Republic*, 35LLR 715 720 (1988); *Swaray v. Republic*, 28LLR 194, 199(1979); *Smith v. Republic*, 25LLR 207, 218(1976)

The Supreme Court has opined in numerous Opinions that the word "may" appearing in the quoted statute gives the judge discretionary authority for the granting or denial of the motion and that a judge commits no error when he decides to reserve judgment until the presentment of evidence by all the parties. Accordingly, we hold that the traffic judge committed no error neither did he abuse the exercise of his discretion.

Thereafter, the appellant took the witness stand and countered the appellee's testimony, alleging that he entered into the main highway, observing all the necessary precautions and that it was the appellee's vehicle which collided with his vehicle after he, the appellant, had already entered into the main highway; that he yielded upon entering the main through highway; that there was no flow of traffic (vehicles) coming from the first lane; that he yielded again upon entering the second lane of the highway and still there was no flow of traffic (vehicle); and that he did not see the appellee's vehicle when he entered the second lane of the main through highway.

After the parties rested with the production of evidence and oral arguments heard, the traffic judge rendered his ruling holding the appellant liable for the occurrence of the accident in violation of several provisions of the Vehicle and Traffic Law. Pertinent excerpts of the traffic judge's ruling are quoted herein below, to wit:

"...taking into consideration the testimonies of witnesses in this case and the documentary evidence produced, the Vehicle and Traffic Law, specifically sections 10.40 and 10.44, provide respectively that the driver of a vehicle approaching an intersection shall yield the right of way to a vehicle entering the intersection from another highway.

When vehicles are approaching the highway approximately the same time, the driver of a vehicle on a left shall yield the right of way to the operator or vehicle of the right. Section 10.44 provides that the driver of a vehicle that is about to enter or cross a highway from the private road or drive way shall yield the right of way to all vehicles approaching such highway.

This court says considering the law controlling this proceeding coupled with witnesses' testimonies, the defendant in this case is hereby guilty and responsible for the cause of the accident.

Wherefore and in view of foregoing the defendant is hereby ordered to pay a fine of US \$100.00 into the Government revenue within 24 hours as of now and if the said defendant fails to pay the said fine he shall be held in the common jail until said fine is paid with flag receipt brought to this court, satisfying the payment."

The counsel for the appellant noted exceptions to the above ruling, and in keeping with law, announced an appeal to the First Judicial Circuit, Criminal Assizes "B" presided over by Judge Geevon Smith of sainted memory. On February 27, 2017, the appellant filed a ten (10) count petition for judicial review before the said court basically contending that the traffic judge ignored and failed to apply the requisite law when he ruled in favor of the appellee. We quote herein below the appellant's 10 count petition for judicial review, to wit:

"PETITIONER'S PETITION

AND NOW COMES PETITIONER, in the above entitled cause of Action and most respectfully requests Your Honor and this Honorable Court for a judicial review of the Final Ruling and records of the proceeding of the Traffic Court and His Honor, Judge Jomah Jallah, Judge of the Traffic Court, prays and request court to deny, ignore and dismiss said Ruling in the above captioned cause for the following legal and factual reasons as showeth to wit:

1. That the Petitioner was the Defendant in the Traffic Court for Montserrado County, charged with reckless driving resulting into property damage and injury and failure to yield to traffic to right away.
2. That the Traffic Judge found the Defendant, Mohammed Sesay, now Petitioner, liable for the traffic infraction and violation; and for which said Defendant through its counsel excepted and announced an appeal to this Court for Judicial Review.

3. Petitioner says that the State/Respondent failed to establish a *prima facie* case and/or prove beyond reasonable doubt that the said Defendant/Petitioner was liable based on evidence presented.

4. Petitioner says further that the testimony of the State second witness uncorroborated with the documentary evidence he relied on when he referred to the Defendant's written statement to render his opinion and investigative/reconstruction report. Said inconsistency in the State second witness was spread on the minutes of court during cross examination in his Answer to Defendant's counsel question as found on the top of page 4 of the trial minutes.

5. Petitioner says this case being an infraction for which Defendant was charged criminally, the inconsistency and uncorroborated testimony work in favor of the Defendant and for which a Judgment for acquittal must lie.

6. Petitioner says further that the Trial Judge erred when he failed to grant a Judgment for acquittal when Defendant's counsel moved for same during trial in a Motion for Judgment during trial.

7. Petitioner further says that from the perusal of the law citations, Defendant/Petitioner relied on the Traffic Law of Section 10.42. And that the Traffic Judge also erred in his interpretation and application of said law relative to the applicability, circumstance and evidence presented to him during trial.

8. Further to Count seven (7) above, Petitioner says that based on the pictorial diagram provided and supported by the police coupled with the points of impacts on both vehicles as well as what prompted the accident relative to who hit who, were all ignored by the Judge in making a conclusive Judgment; and for which Petitioner says constitute a reversible error.

9. Petitioner says that both counsels in these proceedings alleged that the adversary driver failed to yield to the right and the Trial Judge erred by his failure to properly identify and point out which one of the applicable sections of law applies under the given circumstance; and for which Petitioner brings a reversible error for Judicial Review to be reversed.

10. Petitioner says that based on the circumstances, the point impact, who hit who, the applicable law under the given circumstance is 10.42; which by applicable law revealed that Respondent/Driver failed to yield to a vehicle (Petitioner) which was proceeding into or across the highway and for which Petitioner so prays and requests the Honorable court to hold the Respondent liable for the accident thereby reversing the erroneous ruling of the Trial Traffic Judge.

WHEREFORE, and in view of the foregoing, fact and circumstances, Plaintiff most respectfully prays Your Honor and this Honorable Court to ignore, deny and dismiss the erroneous Ruling of the Trial Judge, Judge Jomah Jallah, Judge, Traffic Court; reverse same and have the Respondent be held liable for recklessly driving resulting into injury and property damage and failure to yield to vehicle proceeding into and across the highway; and grant unto Petitioner any and all other and further relief which this Court deems just, legal and equitable under the circumstance."

On March 1, 2017, the appellee filed a ten (10) count returns asserting that the Judge committed no error and that the traffic judge rightly applied the law. Like the petition, we herein quote below the appellee's returns, to wit:

"RESPONDENT'S RETURNS

And now comes, Respondent in the above entitled cause of action praying Your Honor and this honorable court to deny and dismiss Petitioner's Petition for Judicial Review for the following legal and factual reasons as showeth to wit:

1. That as to count one of Petitioner's Petition, Respondent says that this count present no traversable issue and should be dismissed as the Petitioner was charged by the Liberia National Police for violating the vehicle and traffic law for reckless driving, failure to yield to the Right of way, resulting into property damage.
2. That as to count two of Petitioner's Petition, Respondent says and avers that indeed when the matter was called for trial at the traffic court the evidence adduced at trial couple with the state witness testimony, was the basis for which the Judge ruled, holding the petitioner liable for the occurrence of the accident.
3. That as to count three of Petitioner's Petition, Respondent says and avers that this count should be dismissed in that it was based on the corroborated testimonies of the State's witness during trial that the Petitioner failed to yield to the Right of Way when coming from a secondary road to a primary road that resulted into the accident, for which the state has proven its case beyond the standard of reasonable doubts.
4. That as to count four of Petitioner's Petition, Respondent says and avers that this count should also be dismissed as the State's second witness referred to testimony was based strictly on what lies within certain knowledge and that his testimony did point to the fact that the petitioner was liable for the occurrence of the accident.
5. That as to count five of Petitioner's Petition, Respondent says and avers that this count is a fallacy as under our law, traffic infraction are both quasi criminal and civil action and as such the traffic court acted strictly in line with law by arresting the Petitioner criminally; and that under our law hoary with age corroborated testimony of the state's witnesses will hold the Respondent liable for the commission of the crime.
6. That as to count six of Petitioner's Petition, Respondent says and avers that this count should be dismissed in that the Judge did not commit any reversible error when he denied petitioner motion for Judgment for acquittal as the evidence adduced at trial by the state's witness did corroborate and was the basis for the Judge denying Petitioner's motion for Judgment for acquittal.
7. That as to count seven of Petitioner's Petition, Respondent says and avers that this count should also be dismissed in that the Judge relied on sections 10.44 & 10.42 of the Vehicle and Traffic Law and did not commit any reversible error to warrant his Judgment to be set aside; and

as such Respondent pray Your Honor to take judicial notice of the Traffic Judge Ruling.

8. That as to count eight of Petitioner's Petition, Respondent says and avers that the pictorial diagram, couple with the police investigation, cause of the accident and the vehicle and traffic law, sections 10.42 and 10.44 were all taken into consideration by the Traffic Court Judge when he held the Petitioner liable for the occurrence of the accident.
9. That as to count nine of Petitioner's Petition, Respondent says and avers that it was the Petitioner who failed to yield to the Right of Way when he came from a secondary road to enter a primary road that led to the occurrence of the accident and based on his failure to yield to the Right of Way, he damaged Respondent's vehicle for which he was held liable by the Traffic Court Judge based on evidence adduced at trial.
10. That as to count ten of Petitioner's Petition, Respondent says and avers that this count should be dismissed in that, the applicable law, section 10.42 which held the Petitioner liable for failure to yield to the Right of Way that resulted in the property damage is a clear indication that it was the Petitioner who failed to yield to the Right of Way that led to the accident, hence Your Honor should affirm the Ruling of the Traffic Judge, His Honor Jomah Jallah.

WHEREFORE AND IN VIEW OF THE FOREGOING FACTS AND CIRCUMSTANCE, Respondent prays Your Honor to dismiss and deny Petitioner's Petition for Judicial Review, as the Traffic Judge's Ruling was strictly in line with sections 10.42 & 10.44 of the Vehicle and Traffic Law, affirm the Ruling of His Honor Jomah Jallah and render unto Respondent any and all further relief that Your Honor and this honorable court may deem just and legal in these premises."

On March 16, 2017, upon listening to arguments from the counsels representing the parties, the trial court on March 21, 2017, affirmed the traffic court's ruling that the appellant was responsible for the accident that occurred on October 20, 2016. The counsel for the appellant noted exceptions to the ruling on the petition for judicial review, and announced an appeal to the Supreme Court. On March 30, 2016, the appellant filed a 4 count bill of exceptions stating as follow:

"BILL OF EXCEPTIONS

AND NOW COMES PETITIONER, in the above entitled cause of action and most respectfully prays your Honor and this Honorable Court to grant/approve this bill of exceptions for the following reasons therefor, to wit:

1. Petitioner says that the trial judges erred when they failed to consider the applicable laws and or sections thereunder which were applicable under the given circumstances or facts presented.
2. Petitioner says further that the applicable law is section 10.42 and not 10.44 as considered/alluded to by the trial judges.
3. Petitioner says also that the trial judge erred when he failed to acquit the Defendant or grant the petition for judicial review under the circumstances

where doubts were created and/or the State witnesses' testimonies were inconsistent and uncorroborated.

4. Petitioner says further that the Circuit Judge erred when he did not consider a judgment for acquittal which was at the sole discretion of the trial judge even in the midst of doubt and uncorroborated testimonies.

WHEREFORE AND IN VIEW OF THE FOREGOING, petitioner/defendant respectfully prays Your Honor and this Honorable Court to approve this bill of exceptions for review of this matter in accordance with law, practice and procedure in this jurisdiction."

In summary, the appellant's 4 count bill of exceptions presents only two contentions viz: (1) that the trial judge misapplied the law when he relied on sections 10.40 and 10.44 of the Vehicle and Traffic Law and should instead applied section 10.42 thereof which the appellant believes is the controlling law in this case; and (2) that the trial judge committed a reversible error when he denied the appellant's submission for a judgment of acquittal.

This Court having previously addressed the contention surrounding the submission for a judgment of acquittal and having held that the traffic judge did not abuse the exercise of his discretion when he denied the appellant's submission for judgment of acquittal, we will disregard the second contention on this issue. Therefore, counts 3 and 4 of the bill of exceptions relating to the issue of a judgment of acquittal are hereby dismissed.

This leaves us with the lone issue as to whether or not the trial judge misapplied the law when he relied on sections 10.40, and 10.44 of the Vehicle and Traffic Law instead of section 10.42 thereof. We take recourse to the pertinent provisions of Chapter 10 (D) of the Vehicle and Traffic Law.

"Subchapter D. RIGHT OF WAY

§ 10.40. Approaching or entering intersections.

The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from another highway. When vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the operator of the vehicle on his right.

§ 10.41. Turning left at intersection.

The driver of a vehicle within an intersection who intends to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard; but after he has properly signaled his intention to turn left, all other vehicles approaching the intersection from a greater distance shall yield the right of way to him.

§ 10.42. Intersection with through highway.

The driver of a vehicle shall stop at the entrance to a through highway and shall yield the right of way to other vehicles which have entered the intersection or have approached so close as to constitute an immediate hazard; after having so yielded the right of way, however, the driver of the vehicle entering the highway may then

proceed, and other vehicles approaching the intersection on the through highway shall yield to the vehicle proceeding into or across the highway.

§ 10.43. Entering stop intersection.

The driver of a vehicle shall stop as required by section 10.57 of this title in obedience to a stop sign or signal erected at the entrance to an intersection, whether or not the intersecting road is a through highway, and he shall proceed into the intersection with caution, yielding the right of way to any vehicle not required to stop which is within the intersection or approaching so closely as to constitute an immediate hazard; but other vehicles at a greater distance shall thereafter yield the right of way to the vehicle which has stopped.

§ 10.44. Entering highway from private road or driveway.

The driver of the vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on such highway."

This Court says that given the facts of the present case, sections 10.41, 10.43 and 10.44 are inapplicable to this case because: (i) the vehicles subject of these proceedings were not coming from opposite directions as stated in section 10.41; (ii) there were no stop signs or signals around the Airfield, Wroto Town Junction as per section 10.43; and (iii) the vehicles were not coming from a private road or driveway as stated in section 10.44. This being said, we have determined that the applicable provisions for to dispose of this case are sections 10.40 and 10.42.

The appellee relied on section 10.40 of the Vehicle and Traffic Law as the applicable since, as he argued, his vehicle was proceeding on the main highway and the appellant's vehicle was entering from an intersection unto the main highway.

The appellant argued and relied on section 10.42 of the Vehicle and Traffic Law is applicable since his vehicle was entering the highway from an intersection and that he had allegedly made a substantial turn from the intersection into the highway before his vehicle was hit by the appellee's vehicle.

Were we to accept the appellee's argument on the applicability of section 10.40, it would mean that the appellant's vehicle which was proceeding on the main highway should have stopped at the Wroto Town's intersection and waited for the appellee's vehicle to enter the said highway before continuing on the main highway.

On the other hand, were we to accept the appellant's argument on the applicability of section 10.42, then it would mean that the appellee's vehicle should have yielded to the appellant's vehicle which, the appellant claimed, had already entered the main highway from the through highway or an intersection, and had crossed the lanes and entered the lane driving from the direction of VAMOMA House.

We note that subchapter D of the Vehicle and Traffic Law as quoted hereinabove, carries the title, "Right of Way" and all the sections thereunder speak to when the right of way is to be exercised at various intersections and highways. It is a principle of law that a statute must be interpreted in light of the entire document rather than a sequestered pronouncement, because every provision is of equal

importance. Even where there exists an apparent discrepancy between different provisions, the law requires that the Court should harmonize the discrepancy if possible. *Garlawolu et al v. NEC*, 41LLR, 377, 384-386(2003), *the Liberia Institute of Certified Public Accountants v. Ministry of Finance, et al.*, 38LLR 657 (1998), *The Estate of Frank Tolbert v. Gibson-Sonpon*, 37 LLR 113 (1993).

This Court says that predicated on this principle of law, and in the facts of the present case, we are unable to separate section 10.40 from section 10.42 especially when the wordings of these two sections clearly speak to vehicles entering the highway from an intersection or approaching an intersection. Hence, in combining these two provisions one can easily see harmony and consistency in their wordings, to wit:

“The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from another highway. When vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the operator of the vehicle on his right. Also, the driver of a vehicle shall stop at the entrance to a through highway and shall yield the right of way to other vehicles which have entered the intersection or have approached so close as to constitute an immediate hazard; after having so yielded the right of way, however, the driver of the vehicle entering the highway may then proceed, and other vehicles approaching the intersection on the through highway shall yield to the vehicle proceeding into or across the highway”

We therefore state that the above two sections mean that a driver approaching a highway or entering a highway shall at all times yield the right of way to vehicles on the main highway; that a driver must stop at the entrance of a highway and yield the right of way to other vehicles on the highway that are close to the intersection in order to avoid immediate hazard and that in the event two vehicles enter or approach an intersection [of the highway] at the same, the driver on the left (in this case, the appellant) shall yield the right of way to the driver on his right (in this case, the appellant).

Additionally, this Court says that assuming *arguendo* that section 10.42 as relied upon by the appellant, is the only applicable provision in making a determination from the facts and the evidence of this case, the appellant by this provision of law still cannot escape liability. Reason being, under section 10.42, the appellant who happened to be entering the highway from an intersection had the burden to prove that (i) he yielded to the appellee's vehicle (ii) that the appellee stopped his vehicle and permitted him, the appellant, to continue unto the highway or (iii) the appellee's vehicle was not close enough to the intersection to constitute an immediate hazard. Given the fact that the appellant in his own testimony admitted that he did not see the appellee's vehicle on the highway and that he only recognized the appellee's vehicle during the collision we cannot say here at this point that the appellant took reasonable care pursuant to 10.42 when he entered the highway.

We hold therefore that the appellant was in violation of sections 10.40 and 10.42 of the Vehicle and Traffic law resulting into the accident at the Airfield, Wroto Town Junction.

WHEREFORE AND IN VIEW OF THE FOREGOING, the judgment of the First Judicial Circuit, Criminal Assizes "B", Montserrado County affirming the ruling of the traffic judge holding the appellant liable for the accident is hereby affirmed. The Clerk of this Court is ordered to send a Mandate to the court below to resume jurisdiction over this case and give effect to this Opinion. Costs are disallowed. IT IS HEREBY SO ORDERED.

Judgment Affirmed

When this case was called for hearing, Counsellor Molley N. Gray, Jr. of the Jones & Jones Law Firm appeared for the appellant. The Solicitor General, Counsellor J. Darku Mulbah of the Ministry of Justice in association with Counsellor James N. Kumeh of the Torch Professional & Consultancy, Inc. appeared for the appellee.