

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN
ITS MARCH TERM, A.D. 2019

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEHASSOCIATE 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

Titus Toe, of ELWA Community, Paynesville)
Monrovia, Liberia.....Appellant)

Versus) APPEAL

Republic of Liberia, by and thru Arthur B. C.)
Wah, of the City of Monrovia, Liberia...Appellee)

GROWING OUT OF THE CASE:

Republic of Liberia, by and thru Arthur B. C.)
Wah, of the City of Monrovia, Liberia....Plaintiff)

Versus) CRIME

Titus Toe, of ELWA Community, Paynesville) CRIMINAL MISCHIEF
Monrovia, Liberia.....Defendant) THEFT OF PROPERTY
) CRIMINAL SOLICITATION

Heard: April 10, 2019

Decided: August 9, 2019

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

On April 3, 2013, the Grand Jury for Montserrado County, Republic Liberia presented an indictment charging the appellant herein, Titus Toe along with one Teahjay Momo for the crimes of criminal mischief, theft of property, and criminal solicitation.

The indictment alleged that in the months of June, 2012, and February, 2013 respectively, both Titus Toe and Teahjay Momo entered the property of Madam Janett Finda Kandakai situated at Thinker's Village, and demolished, defaced and destroyed the concrete foundation situated thereon, and upon which she had commenced the construction of a three (3) bedroom house, thereby causing her damages in the amount of Ten Thousand Five Hundred United States Dollars (US\$10,500.00) and One Hundred Twenty Two Thousand Eight Hundred Fifty Liberian Dollars (LD\$122,850.00), constituting the value of the destroyed property, as well as loss of 4,010 pieces of concrete blocks valued at One Hundred Forty Thousand Three Hundred Fifty Liberian Dollars (LD\$140,350.00); two truckloads of sand valued at Twenty Two Thousand Liberian Dollars (LD\$22,000.00); and two truckloads of crushed rocks valued at Fourteen Thousand Liberian Dollars (LD\$14,000.00), allegedly stolen by the defendants. For a better appreciation of charges we quote herein below the indictment, to wit:

"INDICTMENT"

COUNT 1

The Grand Jurors for Montserrado County, Republic of Liberia, upon their oath do hereby find, more probably than not, that the defendants, Titus Toe and Teahjay Mombo committed the crime of Criminal Mischief, a Felony of the third degree, to wit:

1. That in the month of June, A.D. 2012, in the Thinkers' Village Community defendants Titus Toe and Teahjay Mombo, with criminal minds and intent to destroy and damage another person's tangible property, purposely, knowingly, willfully and intentionally committed the crime of criminal mischief against the Private Prosecutor, to wit:
2. That on the date and at the place mentioned above, defendants, Titus Toe and Teahjay Mombo went on the Private Prosecutor's land in Thinkers' Village where he had constructed his three bed-room house foundation with two baths, a kitchen with pantry, dining room, living room, garage and three porches and constructed with concrete blocks, and with force and violence destroyed, damaged and defaced the property.
3. That as if the defendants had not inflicted enough damage and destruction on the Private Prosecutor's [property] house, while he was at the Paynesville Magisterial Court trying to seek redress, defendants, Titus Toe and Teahjay Mombo for the second time went behind the Private Prosecutor and damaged, destroyed and defaced the second phase of the Private Prosecutor's construction work after damaging the first phase.
4. That the total value of the destroyed foundation is US\$10,500.00 plus LD\$122,850.00.
5. That the defendants have no affirmative defense.
6. A person engages in conduct purposely if when he engages in the conduct, it is his conscious object to engage in the conduct of that nature or to cause the result of that conduct.
7. "PROPERTY" is that of another if anyone other than the actor has a possessory or proprietary interest therein. If a building or structure is divided into separately occupied units any unit not occupied by the defendant(s) is an unoccupied structure of another.
8. That the defendant's act is contrary to 4LCLR, Title 26, Section 15.5 (i) (a) and (2). And 4LCLR, Title 26, Section 2.2(a), and 4LCLR Title 26, Section 15.5(b), of the Statutory Laws of the Republic of Liberia, and the peace and dignity of Republic of Liberia.

COUNT 2

The Grand Jurors for Montserrado County, Republic of Liberia, upon their oath do hereby find, more probably than not, that the defendants, Titus Toe and Teahjay Mombo, committed the crime of Theft of Property, a felony of the second degree, to wit:

9. That in the month of June, A.D. 2012, in the Thinkers' Village Community, Paynesville, Montserrado County, Republic of Liberia, defendants, Titus Toe and Teahjay Mombo, with criminal minds and intent to defraud another person of his

property, purposely, knowingly, willfully and intentionally committed the crime of theft of property against the private prosecutor, to wit:

10. That the defendants stole, took, carried away and exercised unauthorized control over and converted the private Prosecutor's 4,010 concrete blocks, valued at LD\$140,350.00, two truck-loads of sand, valued at LD\$22,00.00, use without the will and consent of the owner, thereby depriving the owner of the use of his property.
11. That the total value of the properties stolen is LD\$176,350.00.
12. That the defendants have no affirmative defense.
13. In relation to the property and services, "OBTAIN" means to bring about a transfer or purported transfer of an interest in the property, whether to the defendant or another and secure performance thereof.
14. "PROPERTY OF ANOTHER" means property in which a person other than the actor has an interest which the actor is not privileged to infringe without consent regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in unlawful transaction or was subject to forfeiture as a security interest bearing therein even if legal title is in the creditor pursuant to a conditional sales contract or another security agreement.
15. "OWNER" means any persons or Government with an interest in property such that it is property of another as far as the defendant is concerned.
16. A person engages in conduct purposely if when he engages in conduct, it is his conscious object to engage in conduct of that nature or to cause the result of that conduct.
17. "DEPRIVED" means to withhold property or cause it to be withheld either permanently or under such circumstances that a major portion of its economic value, or its use and benefits has in fact been appropriate and withheld property or cause it to be withheld with the intent to restore it only for payment of a reward or under compensation and dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely.
18. And the value of the property stolen was \$50,000.00 or over and the property was acquired or retained by a threat to commit a first or second degree felony. The value of property shall be the highest value by any reasonable standard, regardless of the defendant's knowledge of such value.
19. Defendants' act is contrary to 4LCLR, Title 26, Section 15.52 (a); and 4LCLR, Title 26, Section 2.2 (b); and 4LCLR, Title 26, Section 15.61 (b) and (g); and 4LCLR, Title 26, Section 15.54; of the Statutory Laws of the Republic of Liberia; and peace and dignity of the Republic of Liberia.

COUNT 3

The Grand Jurors for Montserrado County, Republic of Liberia, upon their oath do hereby find, more probably than not, that the defendant, Teahjay Mombo, committed the crime of criminal solicitation, a felony of the third degree, to wit:

20. That in the month of June, A.D. 2012, in the Thinkers' Village Community, defendant Teahjay Mombo, with criminal mind and intent commit a crime,

purposely, knowingly, willfully and intentionally committed the crime of criminal solicitation against the Private Prosecutor, to wit:

21. That the defendant Teahjay Mombo was the one who ordered principle defendant Titus Toe to steal the Private Prosecutor's 4,010 blocks from his land to damage and destroy the Private Prosecutor's construction work, thereby committing the crime of criminal solicitation.
22. That the defendant has no affirmative defense.
23. A person is guilty of a criminal solicitation if he commands, induces, and entreats or otherwise attempts to persuade another person to engage in conduct which if committed would be a felony, whether as principal or accomplice, with the purpose of promoting or facilitating the commission of that crime, and under circumstances strongly corroborative of the purpose.
24. That the defendants act is contrary to Chapter 10 Section 10.3 of the New Penal Law of the Republic of Liberia; and peace and dignity of the Republic of Liberia.

At the time of the alleged destruction of the subject property, Madam Kandakai was out of the bailiwick of Montserrado County, but had earlier given a power of attorney to her fiancé Mr. Arthur B.C. Wah to oversee the construction work being carried out on said property. It was this power of attorney that he used to pursue the matter of the destruction of the property leading to the indictment and subsequent conviction of the appellant.

On August 20, 2013, at the commencement of trial, the court granted the application by the appellant for separate trial, and proceeded with his arraignment, to which he pleaded not guilty, thus joining issue with the State. During trial, the State produced three regular witnesses in persons of Madam Janett Finda Kandakai, the owner of the destroyed property, her Attorney-In Fact, Mr. Arthur B. C. Wah, and one Sarah Doe, who all testified affirming the allegations contained in the indictment.

On August 22, 2013, after the State had rested with the production of evidence, the appellant made a submission on the records, praying the trial court for a judgment of acquittal, asserting that the private prosecutor Arthur B.C. Wah lacked standing to institute the criminal action against him because the power-of-attorney granted Mr. Wah was not registered and probated, and as such the State lacked sufficient evidence to continue the prosecution. In its response, the State averred that the Republic of Liberia is the party to the criminal proceedings and not the private prosecutrix; that the State had produced three witnesses to prove the crimes as charged in the indictment, and predicated thereon, the submission should be denied.

On the same date, August 22, 2013, the trial court, upon listening to arguments on the motion and the resistance thereto, ruled denying the motion for judgment-of acquittal, stating that the private prosecutor had standing to institute the criminal proceedings; that the weight and credibility of the prosecution's evidence are to be determined by the jury and not the trial judge; and that the appellant should produce evidence, controverting the prosecution's evidence.

This Court says that our laws are clear, replete and unambiguous regarding private prosecutors, their standing, and their role in the prosecution of criminal cases. The Supreme Court in numerous Opinions have stated that the private prosecutor is one who brings to the knowledge of the law that an offense has been committed; and that it is the sole responsibility of the State, and not the private prosecutor, to prosecute criminals. The below is how the Court expounded on this principle:

"a private prosecutor is one who sets in motion the machinery of criminal justice against a person who he suspects or believes to be guilty of a crime by laying an accusation before the proper authorities and who is not himself an officer of justice. The private prosecutor is witness for the State and as such every man may become a private prosecutor, but no man is bound except in some few of the more enormous offenses." *Coleman v. Crawford et al.*, 19LLR 29, 32 (1968); *Pratt v. Badio*, 30LLR 558, 564 (1983); *Bong Mining Company v. Waytanbolo*, 36LLR 911, 916 (1990); *The Management of Firestone Plantation Company v. Republic of Liberia*, 34LLR 614, 628 (1988).

We hold that anyone, regardless of their age, race, nationality, gender, social status or legal standing can report suspicious criminal activities to law authorities and serve as a private prosecutor for the State.

As regards the appellant's challenge to the power of attorney granted the private prosecutor, hold that a power-of-attorney or other documents in relation thereto are absolutely irrelevant to report or aid the prosecution of alleged crimes and that in all criminal proceedings prosecuted throughout the bailiwick of the Republic, it is the State, and only the State that is recognized as the party plaintiff and not the private prosecutor. Hence, Mr. Wah who reported the crime and appeared before the grand jury which presented the indictment is properly the private prosecutor

Now, assuming *arguendo* we were to adopt the appellant's argument regarding the registration and probation of the power-of-attorney, can it be stated that the private prosecutor is not an agent of his principal? This Court says an emphatic no! Firstly, the Supreme Court has held that "*power of attorneys conferred by a Liberian national upon another Liberia national do not have to be registered and probated to make them valid instruments.*" *Massaquoi v. Wilkins*, 19LLR 166 (1969). Secondly, the records show that the principal of the said power-of-attorney took the witness stand, testified to the power-of-attorney, and confirm issuing the said power of attorney in favor of the private prosecutor to protect her interest regarding her property, the subject of the criminal case. The Supreme Court has recognized as a general rule, that circumstantial evidence proving the existence of an agency is admissible although it may be lacking in some respect showing formal appointment of the attorney-in-fact. *Merzario v. Kamal*, 34LLR 316, 331-332 (1987). The Court held that,

"an agency does not require proof of formal appointment to establish it, since it may be inferred from the parties' conduct, statements, and relevant circumstances; that where a party holds himself out as the agent of another, and does act on behalf of his principal, which are ratified and confirmed by the said principal, the law will presume an agency exist." *Id.*

We hold that since the principal of the power-of attorney took the stand and testified to the issuance of the said power-of-attorney thus ratifying the act of her agent, the trial judge committed no error when he recognized the existence of an agency between the private prosecutor and his principal; neither did he err when he confirmed the standing of the private prosecutor to act as an agent of his principal.

Still reviewing trial judge's ruling on the judgment of acquittal, we must once again reiterate with emphasis that the appellant's submission for judgment of acquittal is within the sole discretion of the trial court, which is at liberty to fairly exercise such discretion. It is the law that once either side closes with the production of evidence, either party may make an application for a judgment of acquittal and the judge may enter said judgment. *Criminal Procedure Law*, Rev Code 2:20.10; *Cisco v. Republic*,

Supreme Court Opinion, October Term, A.D. 2015. This Court has interpreted the word 'may' to constitute discretion, and that judicial discretion is defined as a 'liberty or privilege' to decide and act in accordance with what is fair and equitable under the peculiar circumstances of the particular case, guided by the spirit and principles of the law, and [that the] exercise of such discretion is reviewable only for abuse thereof. *Pioneer Construction v. International Bank Liberia Limited*, *Supreme Court Opinion*, March Term, 2015; *Cisco v. Republic*, *Supreme Court Opinion*, October Term, A.D. 2013. The word 'may', therefore appearing in the quoted statute and in consonance with the definition associated therewith, gives the judge discretionary authority for the granting or denial of the motion. Hence, we are in agreement with the trial judge's decision to have reserved judgment and ordered the appellant to produce evidence until the presentment of evidence by all the parties.

This Court has held thus:

"....if the court finds that the initial evidence presented is insufficient to convict the defendant on the charge against him, the court on its own motion or motion by the defendant may proceed to acquit the defendant without further bothering to go through a jury trial of the facts and that the issue of whether the facts adduced in evidence are applicable to the law of the case and therefore warrant the consideration of the jury, is a question of law which must be decided by the court..." Also, "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); *Cisco v. Republic*, *Supreme Court Opinion*, October Term, A.D. 2013.

In the case *Republic v. EID, et.al.*, 37LLR, 761, 764 (1995), Mr. Justice Smith further unveiling this Court's unanimous interpretation of the provision of the criminal statute on judgment of acquittal, enounced thus:

"if the court is convinced that the evidence adduced at trial is not relevant, material, and sufficient to sustain a conviction, it will take the case from the empanelled jury and grant the motion for judgment of acquittal as a matter of law...and if a defendant's motion for judgment of acquittal at the close of the evidence offered by the Republic is not granted the defendant may offer evidence without having reserved the right".

We affirm these holdings of the Supreme Court, and hold that the exercise of the trial judge's discretion to deny the appellant's submission was within the pale of the law, as there was nothing wrong with the trial court's ruling instructing the appellant to produce evidence controverting the prosecution's evidence.

The records show that thereafter, the appellant took the witness stand and was the lone and his only witness.

On August 28, 2013, the parties rested with the production of oral and documentary evidence, and the trial court listened to final arguments. Thereafter, the jury was accordingly charged; and following their deliberation, the jury returned a guilty verdict, against the appellant for the crime of criminal mischief, although the indictment had had also charged the appellant for the crimes theft of property, and criminal solicitation. This Court says that the act of the jury to return a single verdict amidst multiple charges in

the indictment is in consonance with the Criminal Procedure Law, Rev. Code 2: 20.11 (2) which states *"if different offenses are charged in the indictment, the jurors shall, if they convict the defendant, make it appear by their verdict on which counts, if the indictment is divided into counts, or of what offenses, they find him guilty."*

On September 5, 2013, the trial court affirmed the jury's verdict, and sentenced the appellant to imprisonment for a term of one (1) year, with an order to make restitution in the amounts of Nine Thousand Seven Hundred Eighty United States Dollars (US\$9,780.00) and One Hundred Fifty Three Thousand Eight Hundred Fifty Liberian Dollars (LD\$153,850.00); to this final ruling, the appellant excepted thereto and announced an appeal to the Supreme Court.

On September 9, 2013, the appellant filed his bill of exceptions basically alleging that the trial court erred when it denied his submission for judgment of acquittal; that the State's first and second witnesses' testimony were hearsay; and that the verdict was contrary to the weight of the evidence. The Bill of exceptions is quoted herein below as follows:

"Bill of Exceptions

The Defendant/Appellant having been adjudged guilty of the crime of criminal mischief submits his Bill of Exceptions for Your Honor's approval as follow to wit:

1. That Your Honor erred when you failed to charge the jury on perjury when it was revealed that Arthur Wah appeared before the grand jury and claimed to be the owner of the foundation allegedly damaged, but at trial the witness testified that the foundation is owned by Janett Finda Kanakai.
2. That Your Honor erred when you failed to grant Defendant's Motion for acquittal after a Power of Attorney from Janett Finda Kanakai to Arthur Wah was denied to form part of the evidence because said Power of Attorney was never probated and registered.
3. That Your Honor erred when you confirmed and affirmed the grossly erroneous verdict of the trial jury which was manifestly contrary to law.
4. That Your Honor erred when you denied the defendant's motion for judgment during trial when the indictment claimed that the demolition of the foundation was carried out in June 2012 and February 2013, but the state produce no witness to testify to the June 2012 alleged damage, but one witness testified to the February 2012 incident but could not remember the date in February or the time of the incident.
5. That Your Honor erred when your confirmed the jury verdict when the only eye witness testify that the destruction took place in February 2013, but she does not know the date of the month or time of the demolition or how long it took to destroy the foundation.
6. That Your Honor erred when you confirmed the jury verdict which was contrary to the law; in that both Arthur Wah and Janett Finda Kanakai testimonies were based on hearsay testimony and irrelevant to the issue.
7. That Your Honor erred when you failed to acknowledge that the best evidence which a case admits of must be produced, i.e. the arresting officer and the city mayor office technical team whom the defendant allegedly

admitted to was never produced to testify, but yet you confirm the erroneous verdict.

8. That Your Honor erred when you denied defendant motion for new trial when the verdict was contrary to law and fact contain in the indictment.
9. That Your Honor erred, when you failed to acknowledge that the receipts exhibited by prosecution stated in the indictment, thereby creating material and reasonable doubt.
10. That Your Honor erred when you sustained many objections to defendant's counsel questions during cross examination of each of the prosecution witness.

That Your Honor erred when you overruled defendant's counsel objection to many questions posed to the prosecution's witnesses as per record. And, also Your Honor erred by refusing to instruct the jury on the charge to the jury by counsel for defendant on the issue of perjury."

Having considered the alleged errors stated in the appellant's bill of exceptions, the facts and the species of evidence attendant thereto, we find that the only issue determinative of this appeal is whether or not the evidence adduced at trial was sufficient to sustain a guilty verdict against the appellant. In other words, did the State produce sufficient evidence to prove the charge of criminal mischief beyond all reasonable doubt?

Recourse to the records shows that the testimonies of the State's three (3) witnesses corroborated and proved the charge in the indictment, specifically criminal mischief. The State first witness, Janett Finda Kanakai testified that she is the owner of the property; that she constructed a foundation on the property; that she issued a power-of attorney in favor of Arthur B.C. Wah to supervise her property while she was stationed in Lofa County; and that subsequently she received a called from her attorney-in-fact that her foundation was destroyed.

The State's second witness, Arthur B.C. Wah, corroborated the testimony of witness Kandakai and further testified that he was informed about the destruction of the property; that he notified witness Kandakai about said destruction; that he proceeded to the property and photographed the destruction caused thereon; that the value of the destroyed property, as per receipts placed in evidence is estimated at US \$10,500.00 (Ten Thousand Five Hundred United States Dollars) and LD 299,200.00 (Two Hundred Ninety Nine Thousand Two Hundred Liberian Dollars); that the appellant left his cell phone number at the property; that he, the witness, called the appellant's cell phone and that the appellant answered same by introducing himself as Titus Toe; that the appellant provided his residential address where he was subsequently arrested and turned over to the Paynesville Magisterial Court.

The records show that the appellant, in his bill of exceptions and brief, has requested this Court to disregard the testimonies of these two witnesses on grounds of hearsay. It is the contention of the appellant that these two witnesses were not present when the alleged crime occurred and as such, their testimonies regarding the destruction of the property are hearsay.

This Court says that it has carefully reviewed these witnesses' testimonies, and the controlling law on hearsay, and has found the appellant's contention to be legally untenable. The witnesses' testimony established that indeed they were called concerning the destruction of the property and one of the witnesses, Arthur B.C. Wah, testified that he proceeded to the property and photographed the damaged property. We have held that

"statements made out of court and offered in evidence through a witness not to establish the truth of the matter stated, but to establish the fact that the statement was made, is not to be excluded as hearsay." Civil Procedure Law Rev Code 1:25.7(5); *Massaquoi v Republic*, Supreme Court Opinion, October Term, A.D. 2013. We therefore hold that the testimony of these two witnesses regarding the destruction of the property, is not hearsay.

Our holding not to exclude the two witnesses' testimonies is also supported by the fact that the State third witness, Sarah Doe, a resident within the vicinity of the destroyed property testified that she witnessed the destruction of the property by the appellant and two other men; and that she readily and accurately identified the appellant in open court as the individual she saw demolishing the property.

The appellant made no effort to refute these damning testimonies of the State witnesses, or to produce corroborating witnesses to prove his alleged innocence. The records show that the appellant, besides being his only witness, also miserably failed to deny the charges when he testified in his own defense during direct examination. Given the nature of the appellant's testimony in his own defense we have decided to quote same herein below, to wit:

- "Q : Mr. Witness what is your name where do you live?
A : My name is Mr. Titus Toe and I lived in Gbangba Town?
Q : Do you know the plaintiff, that is the person who brought you here?
A : Yes
Q : When did you get to know the person who sued you?
A : I began to know this individual the morning when he call me to carry me to jail
Q : The plaintiff has brought this action of criminal mischief against you, what have you to say?
A : I am innocent to this action
Q : Since you are innocent to this action, please tell the court whether you know anything about the property in question?
A : No"

The above excerpt is the only testimony the appellant provided as his defense during direct examination. This Court has held that *"when the accused in a criminal prosecution fails to explain incriminating facts and circumstances in evidence on the trial that lay peculiarly within his knowledge, he takes the chance of any reasonable inference of guilt which the jury might properly draw from the whole evidence; that the uncorroborated testimony of a criminal defendant is insufficient grounds to authorize reversal of a judgment of conviction since a defendant will not be set free on the strength of his lone testimony especially where two or more witnesses have testified against him."* *Tolbert v. Republic* 30LLR 3, 22 (1982); *Fallah v. Republic*, Supreme Court Opinion March Term 2011.

This Court has opined that "reasonable doubt is that state of the case which after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say and feel an abiding conviction to a moral certainty of the truth of the charge." *Collins v. Republic* 22LLR 365, 371 (1974); *Massaquoi v. Republic*, Supreme Court Opinion, October Term A.D 2013. The reasonable doubt that the jury or the court sitting without a jury, is permitted to entertain must be as to the whole evidence, and not as to a particular fact in the case, and in examining the testimonies of witnesses, it is not a requisite that the jury should believe a particular witness beyond a reasonable doubt; but it is required that in view of all the testimony,

the jury should believe beyond a reasonable doubt that the defendant is guilty. *Ben v. Republic* 31LLR 107, 126 (1983). The Supreme Court has also held that,

"the advantage the defendant derives from the fact that the burden is on the prosecution to prove his guilt beyond a reasonable doubt, ceases when the prosecution has done this to such an effect as to sustain a verdict of guilty. At this point should the case close and go to the jury, it goes free from the presumptions arising from the imposition of the burden of proof... the rule requiring the actor to take on him the burden of proof is a rule of practice adopted for the proper development of the case, and ceases to operate when the evidence on the part of the prosecution established the defendant's guilt beyond a reasonable doubt." *Massaquoi v. Republic*, Supreme Court Opinion, October Term A.D 2013; *Davies v. Republic*, Supreme Court Opinion, October Term A.D 2008.

Accordingly, the appellant having miserably failed to refute or rebut the State's damning evidence, we hold that said evidence is sufficient to sustain the guilty verdict, and that the State did prove beyond a reasonable doubt the crime of criminal mischief as charged in the indictment.

Wherefore and in view of the foregoing, this Court will not disturb the verdict and final judgment of the trial court, and same are 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. And it is hereby so ordered.

Judgment Affirmed

When this case was called for hearing, Counsellor Mamee S. Gongbah of the Liberty Law Firm appeared for the appellant. The Solicitor General, Counsellor J. Darku Mulbah, of the Ministry of Justice appeared for the appellee.