

The writ is set aside. There will be no order as to the costs of this application.

Writ set aside.

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NAYMOINOH v. SAWYERR; KPANNEH v. SAWYERR

Supreme Court (Tew, C.J.): July 7th, 1931

- [1] Courts — contempt of court — jurisdiction — Kroo Tribal Ruler has no inherent jurisdiction to punish contempt: A Tribal Ruler has no inherent jurisdiction to punish a contempt of court and may impose only such fines as are prescribed for breach of rules made under the Tribal Administration (Colony) Ordinance (*cap.* 217); although the Kroo Tribal Ruler has power under the Tribal Administration (Freetown) (Kroo) Rules (*cap.* 217), r. 12 to impose a fine for contravention of the rule that parties to a dispute shall abide by the decision of the Tribal Ruler, this does not empower him to impose a fine for a party's insulting behaviour in court or for his mere statement that he does not intend to comply with the Tribal Ruler's decision (page 244, lines 20—31; page 245, lines 11—21). 10 15
- [2] Courts — native courts — jurisdiction — no inherent jurisdiction to punish contempt of court — Kroo Tribal Ruler may fine only for breach of Tribal Administration (Freetown) (Kroo) Rules (*cap.* 217) — no fine for insulting behaviour in court or for statement of intention not to abide by decision: See [1] above. 20

The appellants were summoned before the police magistrate to show cause why they should not pay fines imposed upon them by the respondent Tribal Ruler. 25

In earlier proceedings before the respondent the appellants had behaved in an insulting manner in the court and had stated that they did not intend to comply with the Tribal Ruler's decision. The respondent fined each appellant for contempt of court and on their failure to pay the fines they were summoned before the police magistrate to show cause why they should not pay. 30

The police magistrate ordered that each appellant should pay the fine imposed upon her. The appellants appealed contending that the fines should be cancelled since the respondent had no inherent jurisdiction to impose a fine for contempt of court, and that although he had power under the Tribal Administration (Freetown) (Kroo) Rules (*cap.* 217), r. 12 to impose a fine for contravention of the rule that the parties to any dispute shall abide by the decision of the Tribal Ruler, insulting behaviour or 35 40

the mere statement of an intention not to abide by such decision did not amount to a breach of the rule.

The appeal was allowed.

5 Legislation construed:

Tribal Administration (Freetown) (Kroo) Rules (Laws of Sierra Leone, 1925, *cap.* 217), r.8:

The relevant terms of this rule are set out at page 244, lines 27–28.

r.12: The relevant terms of this rule are set out at page 244, lines 29–30.

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TEW, C.J.:

The appellant in each of these appeals was summoned before the police magistrate by the Kroo Tribal Ruler to show cause why she should not pay a fine imposed by the said Tribal Ruler. The procedure in such cases is governed by s. 6 of the Tribal Administration (Colony) Ordinance (*cap.* 217), and it is to be noted that a person cannot be so summoned unless he or she has contravened one of the rules made by a Tribal Ruler under s. 4 of the Ordinance.

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It is clear from the evidence that in each of these cases the defendant was fined by the Tribal Ruler, either because she announced that she did not intend to comply with his decision, or because he considered that she behaved in an insulting manner in his court, or for both reasons. The question then arises whether the conduct of either defendant amounted to a contravention of any of the Tribal Administration (Freetown) (Kroo) Rules (*cap.* 217).

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Rule 8 provides that: "The parties in any dispute shall abide by the decision of the Tribal Ruler and be governed accordingly," and r. 12 prescribes a penalty for contravention of — "any of the foregoing sections" Rule 20 provides that: "No Krooman shall interfere with the Tribal Authority or shall disturb the meetings convened by the Tribal Authority" and r. 24 prescribes the penalty for contravention of — "any of the foregoing sections" — apparently for the contravention of any of the rules numbered 18 to 23.

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To deal first with this last group of rules, there is nothing to indicate what is meant by "the Tribal Authority," which in r. 18 (2) is referred to in the plural. In this singularly ill-drafted Ordinance and these, perhaps, even worse-drafted rules, there is no definition of the term. Possibly it means the Tribal Ruler

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assisted by the committee referred to in para. (n) of s. 4 (1) of the Ordinance as amended by the Tribal Administration (Colony) (Amendment) Ordinance, 1926. In that case, r. 24 does not refer to the Tribal Ruler sitting as a court to decide disputes, and this view is borne out by the difference in the wording of rr. 12 and 24 respectively. By r. 12 the penalty is to be “adjudged” by the Tribal Ruler and paid to him; by r. 24 the penalty is to be “adjudged” by and paid to the Tribal Authority. There is no mention of the Tribal Ruler in any of rr. 18 to 23, the term used is always “Tribal Authority” or “Tribal Authorities.”

The respondent therefore has to fall back on rr. 8 and 12 and show that he had a right to impose a fine on each or either of the appellants because she did not abide by his decision. If he fined either of them merely for insulting him, as his own evidence seems to show, he was clearly acting beyond his powers. There is no rule empowering him to impose a penalty for such an offence, and he has no inherent power to punish for contempt.

The wording of r. 8 is extraordinarily loose. When does a litigant fail to abide by the decision of the Tribal Ruler? It certainly is not enough that he or she should express dissatisfaction with the decision in court, or even announce his or her intention not to obey the decision.

These cases afford a striking illustration of the unsatisfactory character of these tribunals, and of the unfitness of yet another Tribal Ruler to exercise the jurisdiction vested in him.

The order of the police magistrate in each case is set aside, and the fines imposed by the Tribal Ruler are cancelled. The respondent will pay the costs of each appeal.

Appeals allowed.