

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
MARCH TERM, A.D. 2018

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

Tuesday, April 10, 2018
6th DAY’S SESSION

The Honorable Supreme Court of the Republic of Liberia, sitting in its March Term, 2018, met this morning at the hour of 10:00 a.m., for the transaction of business with His Honor Francis S. Korkpor, Sr., Chief Justice, presiding.

Madam Justice Jamesetta Howard Wolokolie did not sit.

OFFICERS OF COURT PRESENT.

COUNSELLORS PRESENT: Thompson N. Jargba, J. Emmanuel R. Berry, Denise Sokan, Nyenati Tuan, Amara Sheriff, G. Wiefueh Alfred Sayeh, Gartor Tate, and Dexter Tiah, Sr.

His Honor Francis S. Korkpor, Sr., ordered and the Marshal cried the opening of the day’s session. Thereafter, the Court was led in devotion by Rev. J. Joel Gould, Chaplain, Supreme Court of Liberia.

A motion for the correction and adoption of the minutes of Wednesday, April 4, 2018, 5th day’s session, was made by Counsellor Thompson N. Jargba of the Law Offices of Jargba & Jargba, and seconded by Counsellor Amara Sheriff of the J. Johnny Momoh & Associates Legal Chambers, Inc.

The following correction was made to the minutes of Wednesday, April 4, 2018, 5th day’s session, by the Bench.

Page 3: *“THE COURT: ‘... The cases will be reassigned based upon notices of assignment. And it is hereby so ordered. Matter suspended’.”*

THE COURT: *“With the correction made by the Bench, the minutes of Wednesday, April 4, 2018, 5th day’s session, are adopted.”*

THE CASE: JAMES Z. MOMOH BY AND THRU HIS ATTORNEY-IN- FACT, GEORGE LANSANA FALLAH OF THE CITY OF PAYNESVILLE, LIBERIA, MOVANT, VERSUS SOLOMON NGEKIA, HAWA FAHNBULLEH, ANSUMANA SHERIFF, BEATRICE JOHNSON, ET AL OF THE CITY OF PAYNESVILLE, LIBERIA, RESPONDENTS. ACTION: MOTION TO DISMISS APPEAL IS CALLED FOR HEARING.

REPRESENTATIONS: *“Movant/appellee is represented by the Tuan Wreh Law Firm and present in Court is Counsellor Nyenati Tuan. And respectfully submits.” “The respondents/appellants are represented by Counsellor Thompson N. Jargba of the Law Offices of Jargba & Jargba. And respectfully submits.”*

EACH SIDE WAS GIVEN FIVE (5) MINUTES TO ARGUE

Counsel for movant argued as per the motion to dismiss appellants’ appeal.

The following questions were posed to counsel for movant by the Bench:

Ques: Was the case already before the Supreme Court when the tax clearance, exhibited to the respondents/appellants’ appeal bond, expired?

Ans: No Your Honors. At the time of the filing of the bond before the lower court, the tax clearance had expired.

Ques: Did the respondents/appellants attach to their appeal bond a certificate from the Central Bank of Liberia?

Ans: Yes, Your Honors.

Ques: Is there an article of incorporation attached to the appeal bond?

Ans: Yes, Your Honors.

Ques: Is there a Business Registration certificate attached to the bond?

Ans: Yes, Your Honors.

Ques: Do you doubt the authenticity of the certificate from the Central Bank of Liberia?

Ans: No, Your Honors. Our concern is with the Tax clearance.

Counsel for movant rested on the opening argument.

Counsel for respondents argued as per the respondents' resistance.

The following questions were posed to counsel for the respondents by the Bench:

Ques: When did you file the appeal bond?

Ans: The appeal bond was filed long before the expiry of the 60 days statutory period allowed for the completion of the appeal.

Ques: Did you simultaneously file the appeal bond and the notice of completion of appeal?

Ans: No, Your Honors.

Ques: The movant alleged that at the time of the filing of your appeal bond, the tax clearance annexed to the bond had expired. What is your response?

Ans: The movant had three days to challenge the bond, but he waived that right, Your Honors.

Ques: Did you afford him the opportunity to challenge the bond?

Ans: Yes, Your Honors. The bond was approved on January 19, 2018, and filed on February 2, 2018. The notice of completion of appeal was filed on February 5, 2018.

Ques: From the date (February 2, 2018) you filed the appeal bond to the date (February 5, 2018) the notice of completion of appeal was filed, did the three (3) days expire?

Ans: Yes, Your Honors.

The Court informed the counsel for the respondents that for him to have afforded the movant/appellee the full statutory period of three (3) days to challenge the appeal bond, he should have filed and served his notice of completion of appeal on the movant/appellee on February 6, 2018.

Counsel for the respondents rested on the opening argument, and in closing, prayed the Honorable Supreme Court to deny movant's motion and grant all further relief as deemed just and legal. And respectfully submitted.

Counsel for movant in closing, prayed the Honorable Supreme Court to grant movant's motion to dismiss appellants' appeal, and grant any and all further relief deemed just and legal. And respectfully submitted.

THE COURT: “RULING RESERVED, MATTER SUSPENDED.”

THE CASE: CROSSROAD ENTERPRISE OF THE CITY OF MONROVIA, REPUBLIC OF LIBERIA, APPELLANT, VERSUS SIAFA KAMARA OF THE CITY OF MONROVIA, REPUBLIC OF LIBERIA, APPELLEE. ACTION: APPEAL, MOTION FOR ENFORCEMENT OF JUDGMENT IS CALLED FOR HEARING.

REPRESENTATIONS: “*The appellant is represented by the Law Offices of Sayeh & Sayeh, Inc., and present in Court is Counsellor G. Wiefueh Alfred Sayeh. And respectfully submits.*” “*The appellee is represented by the J. Johnny Momoh & Associates Legal Chambers, Inc., and present in Court is Counsellor Amara M. Sheriff. And respectfully submits.*”

EACH SIDE WAS GIVEN THIRTY (30) MINUTES TO ARGUE

Counsel for the appellant argued as per his brief and presented the following issues for determination by the Bench:

- “1. *Whether the hearing officer was in error when he proceeded with the hearing in the absence of the appellant/defendant who was on the stand but was never notified as to the continuation of the hearing on the 11th day of August 2011?*
2. *Whether the action of appellant/defendant’s counsel who received the notice of assignment and never notified the appellant/defendant of his decision not to attend the hearing but to proceed to go and canvass for votes, constitute excusable neglect on the part of the appellant/defendant that would warrant a relief from judgment?*
3. *Whether default judgment was the proper form of action adopted by the Hearing Officer?”*

The following questions were posed to counsel for the appellant by the Bench:

Ques: How many times did the Hearing Officer cite the appellant to appear for the hearing, for which he failed to appear?

Ans: Numerous times, Your Honors.

Ques: Was it a default judgment that was entered against the appellant by the Hearing Officer?

Ans: Yes, Your Honors.

Ques: Who filed the motion for relief from judgment before the National Labor Court?

Ans: The motion for relief was filed by the appellant's counsel at the time, Counsellor Jawondah.

Ques: What was the proper venue for the filing of the motion for relief from judgment?

Ans: The counsel for appellant should have filed the motion for relief from judgment with the Hearing Officer, and not at the National Labor Court.

Ques: So the filing of the motion for relief from judgment took place at the National Labor Court as a means to have the matter brought to the Supreme Court?

Ans: I was not representing the appellant at the time, Your Honors. I took up the case when it was already at the Supreme Court.

Ques: What would have been the proper action to file before the National Labor Court considering the circumstances at the time?

Ans: The counsel for the appellant should have filed a motion for enlargement of time.

Ques: Did the appellant file a complaint against his counsel for the counsel's negligence in not properly representing him?

Ans: No, Your Honors. But the Supreme Court can grant the proper and necessary relief in its power of judicial review.

Ques: What is the judgment amount?

Ans: The Judgment amount awarded is US\$14, 000.00.

Counsel for appellant rested on the opening argument

Counsel for the appellee argued as per his brief and presented the following issue for determination by the Bench:

“1. *The Interim National Assembly (INA) Decree No.21 provides that party being dissatisfied with decision of the hearing officer in a labor case has 30 days after rendition of the decision to file petition for judicial review with the National Labor Court. The Appellant did not file petition for judicial review within thirty (30) days. The appellee filed motion to enforce the judgment after 30 days. The Labor Judge granted the motion and ordered the judgment enforced. Whether the Labor Court Judge committed a reversible error?*”

The following questions were posed to counsel for the appellee by the Bench:

Ques: Could the Judge of the National Labor Court look at the matter on the merit in the interest of justice, that is, if you were entitled to a certain amount as opposed to what the Hearing Officer awarded?

Ans: No, Your Honors. The Labor Court Judge could not have gone to the merits of the case, because of the appellant’s failure to file a petition for judicial review. The Judge rightfully applied the law and confirmed the Hearing Officer’s decision.

Ques: What pieces of evidence did you produce at the hearing?

Ans: We produced the appellee’s driver license, his I. D. card and other documents.

Counsel for the appellee in closing prayed the Honorable Supreme Court to refuse jurisdiction and dismiss appellant’s appeal. And respectfully submitted.

Counsel for the appellant in closing, prayed the Honorable Supreme Court to grant appellant’s appeal and have the matter remanded to the Ministry of Labor. And respectfully submitted.

THE COURT: “RULING RESERVED, MATTER SUSPENDED.”

THE CASE: THE MINISTRY OF HEALTH BY AND THRU ITS MINISTER, DEPUTY MINISTERS, COMPTROLLER, DIRECTORS AND ALL OTHER PERSONS ACTING UNDER THE SCOPE OF AUTHORITY OF SAID MINISTRY OF THE CITY OF MONROVIA, LIBERIA, MOVANT/APPELLEE, VERSUS ITTER PHARMACY BY AND THRU ITS GENERAL MANAGER, NABEL ITTER, OF THE CITY OF MONROVIA, LIBERIA, RESPONDENT/APELLANT. ACTION: MOTION TO DISMISS APPEAL IS CALLED FOR HEARING.

REPRESENTATIONS: “*The movant, Ministry of Health, is represented by the Ministry of Justice and present in Court is Counsellor Gartor Tate. And respectfully submits.*” “*The*

respondent is represented by Counsellor Denise S. Soka of the Jones & Jones Law Firm. And respectfully submits.”

EACH SIDE WAS GIVEN FIVE (5) MINUTES TO ARGUE

Counsel for the movant argued as per his brief and presented the following issues for determination by the Bench:

- “1. Whether this Honorable Court has jurisdiction over a motion to dismiss appeal if the movant/appellee has not excepted to the appeal bond in the court below because it was served the notice of completion of appeal on the sixtieth day, but files its motion to dismiss before the Full Bench of the Honorable Supreme Court of Liberia?”*
- 2. Whether an appellant may file an insufficient appeal bond without any attempt to make same sufficient up to the period the trial court loses jurisdiction of the action?*
- 3. Is an appeal bond valid if the surety of said bond fails to disclose its bank statement during the period under which the bond was given?”*

The following questions were posed to counsel for the movant by the Bench:

Ques: Is it a requirement for the Government of Liberia to file bond?

Ans: Yes, Your Honors, in civil litigations the Government of Liberia is required to file bond.

Ques: What law(s) do you rely on to support your answer?

Ans: There is precedence from the Commercial Court of Liberia, where the Government of Liberia was made to file bond.

Ques: Can a decision of the Commercial Court of Liberia be precedence?

Ans: No, Your Honors.

Ques: Did you obtain any monetary judgment?

Ans: No, Your Honors.

Counsel for movant rested on the opening argument

Counsel for respondent argued as per his brief and presented the following issue for determination by the Bench:

- “1. Whether the respondent/appellant’s appeal bond is insufficient and, if so, does the insufficiency render the appeal dismissible?
2. Whether the appeal bond filed by the respondent is sufficient to indemnify the movant from all costs and injuries arising from the appeal?
3. Whether the disclosure of a bank statement of an insurance company is a requirement under Appeal Bonds posted by said insurance company?”

Counsel for the respondent in closing, prayed the Honorable Supreme Court to deny movant’s motion to dismiss appellant’s appeal. And respectfully submitted.

Counsel for movant in closing, prayed the Honorable Supreme Court to grant movant’s motion. And respectfully submitted.

THE COURT: “RULING RESERVED, MATTER SUSPENDED.”

THE CASE: JOHNETTA DAVIES-CISCO OF THE CITY OF MONROVIA, LIBERIA, MOVANT/APPELLEE, VERSUS WILLIE BERNARD ALSO OF THE CITY OF MONROVIA, LIBERIA, RESPONDENT/APPELLANT. ACTION: MOTION TO DISMISS APPEAL IS CALLED FOR HEARING.

REPRESENTATIONS: “*The movant is represented by The Berry Law Firm in association with the Henries Law Firm, and present in Court are Counsellors J. Emmanuel R. Berry and Dexter Tiah, Sr. And respectfully submit.*”

No counsel appeared for the respondent.

The Court took note of the letter of withdrawal filed by the Administrators of the Intestate Estate of Willie Bernard, and after confirming their decision to have the appeal withdrawn from the Supreme Court, advised that they, the administrators, in persons of Alexander Bernard, John K. Bernard, Sr., and Williamena Bernard, file with the Court a copy of their Letters of Administration. The matter was suspended pending the production of the Letters of Administration.

There being no other matter to claim the attention of the Court, His Honor Francis S. Korkpor, Sr., Chief Justice, ordered Alhaji Mustapha Wollor Momoh, Assistant Chaplain, Supreme Court of Liberia, to give the benediction. The Marshal was ordered to adjourn the Court to meet subject to call. And said order was carried out.

Respectfully Submitted:

Atty. Sam Mamulu
ACTING CLERK, SUPREME COURT, R.L.