

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2022

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

Victor Smith Flahn of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Movant)

Versus)

MOTION TO DISMISS
APPEAL

William Gaye also of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Respondent)

GROWING OUT OF THE CASE:)

William Gaye also of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Appellant)

Versus)

APPEAL

Victor Smith Flahn of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Appellee)

GROWING OUT OF THE CASE:)

William Gaye also of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Movant)

Versus)

MOTION FOR A NEW
TRIAL

Victor Smith Flahn of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Respondent)

GROWING OUT OF THE CASE:)

Victor Smith Flahn of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Petitioner)

Versus)

PETITION FOR
PRELIMINARY
INJUNCTION

William Gaye also of the City of Paynesville,)
Montserrado County, Republic of Liberia.....)
.....Respondent)

<u>GROWING OUT OF THE CASE:</u>)	
)	
Victor Smith Flahn of the City of Paynesville,)	
Montserrado County, Republic of Liberia.....)	
.....Plaintiff)	
)	
Versus)	ACTION OF EJECTMENT
)	
William Gaye also of the City of Paynesville,)	
Montserrado County, Republic of Liberia.....)	
.....Defendant)	

Heard: March 22, 2022

Decided: August 4, 2022

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

On April 13, 2021, Mr. Victor Smith Flahn, the movant herein, filed this motion to dismiss the appeal announced by Mr. William Gaye, from a ruling in an action of ejectment instituted by the movant against the respondent alleging substantially that after a trial by a jury in the Civil Law Court, Annex “B”, Sixth Judicial Circuit for Montserrado County, under the gavel of His Honor Roland F. Dahn, respondent was held liable on October 9, 2019; that the respondent announced an appeal and, on October 14, 2019, filed his bill of exceptions within the time allowed by statute; that thereafter, the respondent failed to file his appeal bond and notice of completion of appeal; that on January 17, 2020, the movant obtained a clerk’s certificate to the effect that the respondent has failed to file his appeal bond and notice of completion of appeal; and that the failure to comply with the two mandatory requirements for the completion of appeal is a ground to dismiss the respondent’s appeal announced on October 9, 2019. The movant prays this Court to dismiss the appeal for reasons stated.

At the call of the motion for hearing, no counsel appeared for the respondent. The records also reveal that the respondent did not file a returns to the motion or a brief in support thereof. The counsel for the movant submitted on the minutes of this Court that during the October Term, A.D. 2021, the respondent appeared and requested the Court for time to hire a counsellor-at-law to represent his interest since the counsel representing him in the court below was an attorney-at-law who is not qualified by law to represent his interest before the Supreme Court. This

Court granted the respondent's request for three weeks to allow him find a counsellor-at-law as requested.

Recourse to the records of this Court confirms the assertion of the movant. This Court says that in cases of this kind where the party or counsel, having been granted continuance of the cause to file returns or brief, failed to appear or file a brief, the Court shall proceed to hear argument of the appearing party and rule thereon. *Supreme Court Revised Rule IV, Part 6 (c)*. Additionally, our search of the records shows that the respondent neither filed an appeal bond nor a notice of completion of appeal in violation of the *Civil Procedure Law Revised Code: 1:51.4*.

Considering the above, the single issue presented for the determination of this case is whether the failure of the respondent to file his appeal bond and to serve and file a notice of completion of appeal renders his appeal dismissible? Our answer is a resounding yes.

The strict adherence or compliance with the requirements for the completion of appeal is a matter of settled law in this jurisdiction. Departure or failure to timely comply with any of the requirements enumerated under *Civil Procedure Law Revised Code: 1:51.4* for the completion an appeal is a ground for the dismissal of the appeal. *Catakaw et al v. Karweh, Supreme Court Opinion, March Term, A.D. 2010, Sheriff v. Parwon et al, Supreme Court Opinion, March Term, A.D. 2015, Mr. Jaimanie F. Tyler v. Mr. Lincoln Davis, Supreme Court Opinion, October Term, A.D. 2019, Intestate Estate of T. Q. Harris v. Alex Mulbah et al, Supreme Court Opinion, October Term, A.D. 2019, Esther Yeanay Barkpei v. Joseph L. Tompoe, Supreme Court Opinion, March Term, A.D. 2020, Trosteen MoKollie v. The Management of Lonestar Cell/MTN, Supreme Court Opinion, October Term, A.D. 2021.*

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss appeal is granted, and the appeal is dismissed. 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 the Judgment of this Opinion. Costs ruled against the respondent/appellant. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Morris F. Davis, Jr. of Kemp and Associates Law Offices appeared for the movant. No counsel appeared for the respondent.