

**IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2023**

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CH IEF JUSTICE
 BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
 BEFORE HIS HONOR: JOSEPH N. NAGBE.....ASSOCIATE JUSTICE
 BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE
 BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR.ASSOCIATE JUSTICE

Mr. David Gotoba of the City of Gbarnga, Bong))
 County, LiberiaMovant))
))
 Versus)) MOTION TO DISMISS APPEAL
))

Mr. Management of the Liberian Bank for))
 Development and Investment (LBDI), Bong))
 County Branch Respondent))

GROWING OUT OF THE CASE:))

Mr. Management of the Liberian Bank for))
 Development and Investment (LBDI), Bong))
 County Branch Petitioner))

Versus)) PETITION FOR JUDICIAL
)) REVIEW

Jackson P. Quiogbain, Labour Hearing))
 Officerand) Mr. David Gotoba of the City of))
 Gbarnga, Bong County, Liberia))
 Respondents))

GROWING OUT OF THE CASE:))

Mr. David Gotoba of the City of Gbarnga, Bong))
 County, Liberia Complainant))

Versus)) UNFAIR LABOR PRACTICE/
)) WRONGFUL DISMISSAL

Mr. Management of the Liberian Bank for))
 Development and Investment (LBDI), Bong))
 County Branch Defendant))

Heard: March 21, 2023

Decided: April 12, 2023

MR. JUSTICE YUSSIF D. KABA DELIVERED THE OPINION OF THE COURT.

It is a settled principle in this jurisdiction that only strict compliance with the appeal statute confers jurisdiction on the Supreme Court of Liberia to entertain and delve into the merits of a matter certified for an appellate review. Further, a failure to comply with any of the mandatory jurisdictional steps outlined under *Civil Procedure Law Revise Code:1: 51.4* is a ground for dismissing an 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.

Section 51.4, *ibid*, provides as follows:

“The following acts shall be necessary for the completion of an appeal:

- (a) Announcement of the taking of the appeal;
- (b) Filing of the bill of exception;
- (c) Filing an appeal bond;
- (d) Service and filing of notice of completion of the appeal.

Failure to comply with any of these requirements within the time allowed by statute shall be ground for dismissal of the appeal.”

On February 17, 2023, the movant, David Gotoba filed an eight-count motion to dismiss the appeal announced by the respondent, LBDI, which was later amended on March 17, 2023, substantially alleging that the movant obtained a final ruling in an action of unfair labor practice/wrongful dismissal from the Ninth Judicial Circuit for Bong County; that the respondent, the Management of Liberia Bank for Development and Investment (LBDI) noted its exceptions to this final ruling and announced an appeal to the Supreme Court; that following the announcement of an appeal, the respondent failed to comply with the last step required by law to complete the appeal process which is serving and filing the notice of completion of the appeal. The movant, therefore, prayed this Court to dismiss the respondent’s appeal for its failure to comply with the last mandatory requirement to complete an appeal and grant its amended motion to dismiss the appeal.

In its returns to the amended motion, the respondent also substantially averred that it fully complied with the statutory provision on the perfection of appeal by timely filing its bill of exceptions and appeal bond and by obtaining the notice of completion of appeal issued by the clerk of the trial court and place same in the hand of the sheriff for service on the movant; that when the respondent inquired from the sheriff as to the manner of service of the notice of completion of the appeal, the

sheriff informed respondent that he had taken the notice of completion of the appeal to the offices of Woah and Associates Law Firm, but that no lawyer was present and therefore the sheriff left the notice with a lady that he met at the law firm with promise that he return the following day; and that the respondent had superintended the service of the notice of completion of the appeal, but that the respondent was therefore surprised when it received a copy of this motion. The respondent therefore prayed the Court to deny and dismiss the movant's amended motion and grant unto the respondent other relief as may be deemed just, legal and equitable.

Based on the arguments advanced by the parties in their respective briefs and made before this Court, the single dispositive issue that we are confronted with is whether the respondent complied with the requirement of service and filing of the notice of completion of appeal within the contemplation of the *Civil Procedure Law Revised Code: 1:51.9?*

Section 51.9,*ibid*, provides as follows:

“After the filing of the bill of exceptions and the filing of the appeal bond as required by sections 51.7 and 51.8, the clerk of the trial court on application of the appellant shall issue a notice of completion of appeal *a copy of which shall be served by the appellant on the appellee. The original of such notice shall be filed in the office of the clerk of the trial court.*” Emphasis supplied.

A review of the records in this case shows that the respondent did obtain from the clerk a notice of completion of the appeal as provided for by the statute. However, rather than the respondent itself serving the movant with the copy of the notice of completion of the appeal and filing the same with the office of the clerk of the trial court as provided by the clear language of the statute, the respondent proceeded to place the obtained notice of completion of appeal in the hand of the sheriff for service on its behalf. This is grossly contrary to the clear and unambiguous command of the statute. As the consequence, neither was the movant served nor was a copy of the served copy of the notice of completion of the appeal filed with the trial court.

This issue has been passed upon by this Court more than once. In the case: *Snetter-Carey v. John*, *Supreme Court Opinion, October Term, A.D. 2013*, Madam Justice Wolokolie speaking for this Court gave its interpretation of the statute, *ibid*, as follows:

“....The service in the revised code requires the notice to be served by the appellant himself, and the original copy of the said notice, evidencing service, filed with the court clerk. The step set out in section 51.9 of the revised statute mandates that the appellant himself, and not the court, serve a notice of completion of the appeal, substantiated by the signature of the appellee on the original copy, which is thereafter filed with the clerk of court. The original copy filed with the clerk of court, reflects the filing date, evidence as to whether the notice was filed within the statutory period of sixty days. Evidence which is proper and which this Court finds acceptable to warrant a fulfillment of the final step of the appeal that would confer jurisdiction on it to review a matter sent up on appeal is that which conforms to Section 51.9 as referred to above. Anything to the contrary, which is not in fulfillment of the statute, warrants a dismissal of the appeal by this Court.”

The respondent having failed and neglected to proceed strictly with the controlling statute, we are left with no alternative but, to sustain and grant the prayer in the movant’s motion.

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 enforce the Judgment of this Opinion. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor Morris Y. Massaquoi of the Henries Law Firm appeared for the movant. Counsellor Neto Z. Lighe, Sr. of the Justice Advocates, Partners & Associates appeared for the respondent.