

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS OCTOBER TERM, A.D. 2025

BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR..... CHIEF JUSTICE  
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE ..... ASSOCIATE JUSTICE  
BEFORE HIS HONOR : YUSSIF D. KABA..... ASSOCIATE JUSTICE  
BEFORE HER HONOR : CEAINEH D. CLINTON-JOHNSON ..... ASSOCIATE JUSTICE  
BEFORE HIS HONOR : BOAKAI N. KANNEH ..... ASSOCIATE JUSTICE

His Honour, Joseph M. Kollie, Resident Judge, )  
National Labour Court and Kou Keita also of the )  
City of Monrovia, Liberia.....Movant )

Versus ) MOTION TO DISMISS APPEAL

The Management of Oceano Casino of the City )  
of Monrovia, Liberia.....Respondent )

GROWING OUT OF THE CASE:

The Management of Oceano Casino of the City )  
of Monrovia, Liberia.....Appellant )

Versus ) APPEAL

His Honour, Joseph M. Kollie, Resident Judge, )  
National Labour Court and Kou Keita also of the )  
City of Monrovia, Liberia.....Appellees )

HEARD: October 22, 2025

DECIDED: December 18, 2025

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This motion to dismiss appeal is filed by appellee/movant, praying this Court to dismiss the appeal due to respondent/appellant's failure to transcribe the appeal records to this Court within the statutory period as prescribed by law.

Culled from the transcript of this case is that the co-movant Kou Keita, an employee of the respondent's entity, filed a complaint before the Labour Ministry against the respondent, the Management of Oceano Casino, for unfair labour practice/wrongful dismissal, in which complaint the co-movant, Kou Keita, stated that the respondent indefinitely suspended her on July 28, 2023, on allegations of theft of property, criminal conspiracy and criminal facilitation; that in the letter of suspension dated July 25, 2023, the respondent informed co-movant of her involvement in the removal of wine from Oceano Casino; that on August 3, 2023, the respondent reported the matter to the Liberia National Police (LNP) for investigation; that upon the conclusion of their investigation, the Liberia National Police exonerated her from the crime charged on ground that she was acting upon the instruction of her boss, Therry Tshibamba but that the respondent, Oceano Casino refused to reinstate

her, which act was considered as dismissal in disguise for which the appellee filed a formal complaint at the Ministry of Labor; that the Hearing Officer acquired jurisdiction of the parties and following the issuance of six (6) notices of assignments on May 20, 2024, July 3, 2024, August 16, 2024, August 30, 2024, September 2024 and October 2024, made a determination by default into the matter on the 11<sup>th</sup> of October 2024, adjudging the respondent liable to the co-movant in the amount of Eleven Thousand Two Hundred Fifty United States Dollars (US\$11,250.00) inclusive of wrongful dismissal benefits and unpaid salaries.

It is to this ruling, that the respondent, on October 31, 2024, filed a motion before the Hearing Officer for relief from judgment contending that the co-movant was indefinitely suspended and subsequently forwarded to the Liberia National Police for investigation on allegation of criminal conduct and the matter is still pending before that body; that the Hearing Officer denied and dismissed the respondent's motion for relief from judgment due to the fact that the said body is a fact finder and said motion is not cognizable before an administrative hearing at the Ministry of Labour; that, to which ruling of the Hearing Officer, the respondent noted exception and announced an appeal to the National Labour Court for Montserrado County; that at the National Labour Court, in a petition for judicial review, filed on January 22, 2025, the respondent claimed that the Hearing Officer erroneously ruled in favor of the co-movant because according to the respondent, the police wrote a letter on September 27, 2024, to the Ministry of Labour, requesting the need for further investigation; that despite this letter, the Hearing Officer proceeded to rule against the respondent by default; and that before the repeal of the Labour Law to the Decent Work Act in 2015, abandonment was abolished and there is no provision in the Act that gives a party the right to dismiss a labour case for abandonment.

The trial judge heard arguments pro et con on March 19, 2025, and affirmed the Hearing Officer's ruling, from which the respondent noted exception and announced an appeal to this Court *en banc*; and that following the announcement of the appeal to this Court, the respondent filed its bill of exceptions with the trial court on April 4, 2025, and completed the appeal process with the filing of the notice of completion of appeal on May 23, 2025 but failed to transcribe the records of appeal to this Court, which action has prompted the co-movant to pray this Court to dismiss the said appeal.

Having stated the contentions of the parties, this Court says that the lone issue dispositive of this matter is whether or not the failure of the respondent to transcribe the records to this Court constitutes a ground to dismiss an appeal.

The transcription of records from the trial court is a clerical duty, imposed upon the clerk of the trial court. *Civil Procedure Law, Rev. Code:1.51.11*. Further, Rule 31 of the Revised Rule of the Circuit Court explains how the clerk should transcribe records. This rule is further explained in the case: *The Management of the Liberia Telecommunications Corporation v. Amos Tyler*, 37 LLR 223, 225 (1993).

From the laws quoted above, it is cleared that series of actions are required to be taken before the appeal records are transferred to this Court. Those are:

- a. *The clerk of the court from which the appeal is taken shall make up a record containing certified copies of all the writs, returns, notices, pledges, motions, applications, certificates, minutes, verdicts, decisions, rulings, orders, opinions, judgments, bills of exceptions, and all other proceedings in the case.*
- b. *He shall transmit this record with a copy of the appeal bond to the appellate court within ninety days after rendition of judgment.*
- c. *The clerk of the appellate court shall docket the record forthwith and forward a receipt to the clerk who transmitted it.*

Before the records are forwarded, the Clerk of the trial court shall carry out the below listed obligations:

- a. The Clerk shall serve a written notice on the counsels on both sides following the filing of the notice of completion of appeal, for both counsels to call at the clerk's office and tax the records before they are sent up.
- b. This written notice shall be signed for by the lawyer, or his clerk, or some representative of the law office in which he works.
- c. Failure to call at the clerk's office three (3) days after receiving the notice shall be an indication that the counsel failing to call does not intend to tax the records; in that case the clerk shall proceed to forward them to the Supreme Court in keeping with law.
- d. All disputes shall be settled by the presiding judge. Proof of counsel's failure to tax the records will serve as a bar to any applications for diminution of records in the Supreme Court.

The issue that is before this Court now is the obligation of the Clerk making up a record containing certified copies of all the writs, returns, notices, pledges, motions, applications, certificates, minutes, verdicts, decisions, rulings, orders, opinions, judgments, bills of exceptions, and all other proceedings in the case.

This Supreme Court held in the *Ahmar v Gbotoe* [2004] LRSC 10;42 LLR 117 (2004) (16 August 2004) that “it is the duty of the appellant’s counsel to superintend the appeal and see to it that all the legal requirements are complied with.” Also in the *Dayrell* case, it is stated that the failure to pay for preparation of records to be sent to the appellate court, or failure to file said records is tantamount to an abandonment of the appeal. *Dayrell v Thomas et al* [1952 LRSC 2; 11LLR 98 (1952) (7 March 1952)]. This Court has held in litany of opinions that the failure or delay to transcribe the records on appeal to this Court beyond the statutory period of ninety days is not a ground by statute to warrant the dismissal of an appeal, except those mandatory grounds specified by the statute controlling. *Robert J. Brown v. General Construction, Inc.*, 40LLR 284, 287 (2000). However, this Court has held that the non-subscription of records may constitute a ground to dismiss an appeal for abandonment, which would be treated on a case by case basis and on the facts and circumstances of each case.

The facts and circumstances of this case are that the trial court rendered judgment on March 19, 2025 and the appealing party completed the notice of completion of appeal on the 23<sup>rd</sup> day of March, 2025, but failed to transcribe the records to this Court in accordance with the law quoted *supra*. To determine whether or not the respondent ensured that all the legal requirements were complied with, during arguments before this Court, the respondent, in response to questions posed to him by the Bench, answered:

Q. Do you agree that you have the obligation to have the records transmitted to the Supreme Court?

A. Yes, Your Honours.

Q. Why have you not brought it up?

A. The process is on, Your Honours.

Q. What effort did you make to ensure that the records were timely transmitted to the Supreme Court?

A. We made a payment, but the clerk of the trial court informed us that the amount was insufficient.

It is clear from the answer from the respondent’s counsel that he did not take the appropriate legal measures to avert the dismissal of the appeal by superintending the appeal and seeing to it that all the legal requirements were complied with. The records show that, by the respondent counsel’s argument before this Court, that the clerk of the trial court informed him that the funds required to make the certified copies were insufficient. This information from the clerk imposed upon the respondent’s counsel the duty to ensure that the necessary funds for the transcription of the records were provided. Further, since the clerk informed the respondent’s counsel that the funds were insufficient, it places upon him

a responsibility to have inform the trial judge of the situation with the clerk. The records show that the respondent's counsel did not make any further effort to ensure that the required funds were made available for the transcription of the records, he, knowing fully well that he had ninety days after the rendition of judgment to have the records transcribed before this Court. The answer of the respondent's counsel to this Court as to why the records are not yet before this Court, in which he informed this Court that "the process is on" makes this Court to wonder how long did the respondent's counsel expect for the process to be on when the ninety days period has passed and the respondent's counsel had not ensured that all of the statutory requirements were complied with. Such action by respondent's counsel clearly indicates that the attention required in superintending the transcription of the records is grossly lacking; for all we know the process could go on and on until the respondent's counsel would decide when to make the records available to this Court, to the extent that when he was notified by assignment from this Court, that the motion to dismiss his appeal could be heard on October 22, 2025, no effort was made to ensure that the records were transcribed to this Court.

A cursory review of the records is void as to any evidence of the efforts made by the appealing party, after he was informed by the clerk of the trial court that the funds was insufficient to make the certified copies. In the respondent's superintending role to ensure the transcription of the records to this Court, it was the respondent's obligation to find out why or how the funds were insufficient instead of informing this Court that the process of the transcription of the records "was on going". Had the respondent sought the why and the how, and sought the intervention of the trial judge to determine the sufficiency of the fees of transcription, this Court would have had reasons to judge the efforts by the respondent, which is in consonance with Rule 31 of the Revised Rule of the Circuit Court which states in part that "... All disputes shall be settled by the presiding judge..."

We are of the view that the respondent should have brought this to the attention of the trial judge in reconciling this insufficient amount for the transcription of the records to us but we do not see any step the respondent took in further addressing this issue of forwarding the appeal records to the Supreme Court. Therefore, the failure of the respondent's counsel to have ensured that the appeal records were transcribed to the Supreme Court constitutes abandonment of an appeal and subject to dismissal in accordance with law because the law places the responsibility of transcribing the records to this Court on the clerk of the trial court; so a party litigant who announces an appeal has a duty to superintend the transcription of the trial records within ninety (90) days. The appellant, having failed to ensure that the records of the appeal were transcribed to the Supreme Court, after seven

months of the trial court ruling and same still has not being transcribed to this Court at the call of the case, this constitutes abandonment of the respondent's appeal.

WHEREFORE AND VIEW OF THE FOREGOING, the movant's motion to dismiss the respondent's appeal is hereby granted and the appeal is hereby dismissed. The Clerk of this Court is ordered to send a Mandate to the court below, commanding the judge presiding therein to resume jurisdiction and enforce the Judgment of this Opinion. Costs are ruled against the respondent. AND IT IS HEREBY SO ORDERED.

Granted.

When the case was called for hearing Counsellor E. Judi Johnson Savice of the Mesurado Law Partners appeared for the movant. Counsellor Denise S. Sokan of the Jones and Jones Law Firm appeared for the respondent.