

IN THE HONORABLE 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

Republic of Liberia by and thru Delia Wholesale Company by and thru)
its CEO, Delia Berry of the City of Monrovia, Liberia.....Appellant)

Versus) APPEAL

His Honor J. Kennedy Peabody, Assigned Circuit Judge, 1st Judicial)
Circuit, Criminal Court Assizes “B”1st Appellee)

And)

His Honor L. Ben Barco, Stipendiary Magistrate, Monrovia City)
Magisterial Court.....2nd Appellee)

GROWING OUT OF THE CASE:

Republic of Liberia by and thru Delia Wholesale Company by and thru)
its CEO, Delia Berry of the City of Monrovia, Liberia.....Petitioner)

Versus) PETITION FOR
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His Honor J. Kennedy Peabody, Assigned Circuit Judge, 1st Judicial)
Circuit, Criminal Court Assizes “B”1st Respondent)

And)

His Honor L. Ben Barco, Stipendiary Magistrate, Monrovia City)
Magisterial Court.....2nd Respondent)

HEARD: November 13, 2025

DECIDED: December 18, 2025

MR. CHIEF JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

Our esteemed colleague, Madam Justice Ceaineh D. Clinton-Johnson, while presiding in Chambers, rendered a ruling on August 26, 2025, quashing the alternative writ of certiorari issued by her chambers and denying the peremptory writ prayed for by the petitioner. The petitioner, discontented with this ruling of the Justice in Chambers, excepted and announced an appeal to this Court *en banc*, assigning what it believes to be errors committed by the Justice in Chambers for this Court’s review and subsequent reversal.

Recourse to the certified records reveal that on October 25, 2023, a writ of arrest was issued by the Monrovia City Magisterial Court against one Joseph Lahai Samba and Alex William, appellees herein for the crimes of Aiding consummation of crime, theft of property and criminal mischief. The writ of arrest alleged that the appellees had clandestinely and criminally sold and bought an Acura MDX Sport Vehicle without the consent of the original owner with criminal intent and motive. The vehicle, subject of the said investigation was impounded under orders of His Honor L. Ben Barco, Stipendiary Magistrate of Monrovia, City Court, co-appellee herein and a pre-trial conference was scheduled.

During the pretrial conference, the following findings were established:

1. The appellant/private prosecutrix, Delia Berry claimed that she is the owner of the vehicle in question and that she left it in a garage under the supervision of co-appellee, Joseph Lahai Samba, before travelling to the United States of America but upon her return to Liberia, she was informed that the said vehicle had been sold to co-appellee Bill Williams by co-appellee Joseph Lahai Samba without her consent.
2. Co-appellee Joseph Lahai Samba did not deny that the said vehicle belonged to the appellant or that he sold the vehicle, his only defense was that the vehicle was given him by the appellant to sell in on her behalf.
3. That, he (Joseph Lahai Samba) did not give the proceeds of the sale to Delia Berry, owner of the vehicle and that he was ready to make restitution of the sale amount to Delia Berry, but Delia Berry rejected the said offer and demanded that her vehicle be returned to her.
4. That the vehicle was purchased by Co-appellee Bill Williams for Four Thousand Five Hundred United States Dollars (US\$4,500.00), but the documents issued to Bill Williams were neither the original documents nor were they the genuine documents of the vehicle.

However, the case could not be resolved through the pre-trial conference, so a preliminary examination was prayed for by the appellant's counsel and the same was granted and the case was ruled to trial. Thereafter, the defense counsel prayed the court for severance and same was granted for.

During the preliminary examination, the appellant paraded with three (3) witnesses, however, in the middle of the trial, the appellant, despite several notices of assignments issue by the court failed to show up for her case. This prompted Co-appellee, Alex Bill Williams to file a motion for dismissal of the said case due to abandonment on May 16, 2024; however, the magistrate denied the said motion. Again, the appellant failed to show up to prosecute her case, and this prompted Co-Appellee, Alex Bill Williams again to file a motion for dismissal on November 4, 2024, for abandonment. Surprisingly, the prosecution did not file any resistance but, however, pleaded for time to resist the said motion.

The magistrate, however, ignored the request of the appellant and granted the application filed by the appellee and ordered the entire case dismissed without prejudice to the state to re-file. The appellant excepted to this ruling of the magistrate and announced an appeal.

However, since the appellant excepted to the ruling on November 4, 2024, the appellant by and through the state failed to pursue the said appeal, in fact, the appellant through the state did nothing about the said matter for almost four months. Later, after four (4) months succeeding the rendition of final judgment, the appellant filed summary proceedings against the magistrate at the 1st Judicial Circuit, Criminal Court "B". The parties were cited for a hearing before the then assigned judge, His Honor J. Kennedy Peabody, who after conducting a hearing, did not render any written ruling nor issue any mandate to the magistrate but reportedly advised the appellant to proceed against co-appellee Joseph Lahai Samba to produce the vehicle or pay the amount the appellant was claiming for the vehicle.

The appellant, not being totally satisfied with this advice of the judge, filed a petition for the writ of certiorari on March 11, 2025, before the Justice in Chambers. The Justice issued the writ and ordered the relevant parties to file their returns. Thereafter, a trial was held and the Chambers Justice ruled quashing the alternative writ of certiorari that was issued and denying the peremptory writ of certiorari.

Our focus in this appeal is whether our colleague erred when she ruled denying the peremptory writ of certiorari as prayed for by the appellant.

Our law defined certiorari as a special proceeding to review and correct decisions of officials, boards, or agencies acting in judicial capacity, or to review an intermediate order or interlocutory judgment of a court. *Civil Procedure Law Rev. Code 1.16:21*.

It is trite law in this jurisdiction that certiorari will lie only to review interlocutory rulings of

lower courts and not final judgment. *Reeves et al. v. Johnson* 28 LLR 30 (1979); *Vargas v. Reeves et al.* 39 LLR 368 (1999).

Firstly, the law provides that a court shall dismiss a complaint against a defendant who is not indicted for an indictable offense or his appearance in court in response to a summons or notice to appear charging him with such an offense. Unless good cause is shown, a court shall dismiss an indictment if the defendant is not tried during the next succeeding term, after the finding of the indictment. A court shall dismiss a complaint charging a defendant with an offense triable by a magistrate or justice of the peace if the trial is not commenced in court in response to a summons or notice to appear. *Criminal Procedure Law Rev. Code 2:18.2.*

The records show that the matter before us was first initiated in October of 2023, the records also reveal that up to November 2024, the appellant had failed to proceed with its case despite receiving notices of assignments from the court. It was this action that prompted the appellee to file a motion to dismiss the said case, which was denied the first time in May of 2024, but after some months, the appellee again filed a motion to dismiss, this time in November of 2024, which motion the magistrate granted.

The case was dismissed without prejudice, thus the appellant had remedies at law, to announce an appeal to the circuit court, to re-file its action or whatever appropriate legal remedy it may have chosen, but none of the many legal remedies available to the appellant were ever taken advantage of by the appellant.

The appellant, however, waited four (4) months after the court dismissed its case to carry the magistrate on summary before the Circuit Court, a move that is contrary to our laws and procedures. His Honor J. Kennedy Peabody, realizing that this matter was already dismissed and that the appellant did not take advantage of the available legal remedies did not issue any written order or mandate to the magistrate but reportedly proceeded to only issue verbal orders to the magistrate which does not have the force of law.

The magistrate acted properly when he ignored the verbal order of the judge because there was no mandate before him legally to act upon.

We are now left to wonder, considering the facts and circumstances of this case, why the state, with all its lawyers and legal machinery, will elect to file this frivolous petition for the writ of certiorari when clearly the conditions precedent for filing a petition for the writ of certiorari are absent. As stated supra, certiorari will only lie when the issue arises or grows out of an

interlocutory ruling made by the trial court and not from a final ruling, as certiorari will not and cannot substitute as an appeal. *Reeves et al. v. Johnson* 28 LLR 30 (1979); *Vargas v. Reeves et al.* 39 LLR 368 (1999).

This Court notes that the ruling rendered by Magistrate L. Ben Barco was a final ruling as the ruling brought the case to its finality by dismissing it and as such the appellant had other remedies at law which it was at liberty to pursue but failed to do so but rather elected to file a frivolous petition for the writ of certiorari. The petition for the writ of certiorari was rightly denied by our colleague and finding no reason to disturb the ruling of our colleague, we unreservedly affirm the said decision; however, the appellant is free to re-file or pursue whatever legal remedies that are available to her cause.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the Justice in Chambers is affirmed in its entirety. However, the case having been dismissed without prejudice, the private prosecutor has a remedy at law to refile and peruse her matter in civil or criminal procedure.

The Clerk of this Court is ordered to send a mandate to the court below commanding the judge therein to resume jurisdiction and give effect to this ruling. IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING COUNSELLOR MORRIS MASSAQUOI APPEARED FOR THE APPELLANT. COUNSELLOR HENRY W. BARKOON APPEARED FOR THE APPELLEE.

Affirmed.