

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

The Republic of Liberia by and thru the Liberia)
Revenue Authority (LRA) represented by its)
commissioners General Thomas Doe Nah and all)
its authorized Officers of the City of Monrovia,)
Liberia.....Movant)
)
Versus) Motion to Dismiss Appeal
)
Afric Diam Company Inc., by and thru its Chief)
Executive Officer Mustapha Tounkara and all)
authorized Officers, of the City of Monrovia,)
Liberia.....Respondent)
)
GROWING OUT OF THE CASE)
)
The Republic of Liberia by and thru the Liberia)
Revenue Authority (LRA) represented by its)
commissioners General Thomas Doe Nah and all)
its authorized Officers of the City of Monrovia,)
Liberia.....Plaintiff)
)
Versus) Failure to Pay Tax Due the
) Government of Liberia
)
Afric Diam Company Inc., by and thru its Chief)
Executive Officer Mustapha Tounkara and all)
authorized Officers, of the City of Monrovia,)
Liberia.....Defendant)

Heard: October 20, 2025

Decided: December 19, 2025

MR. JUSTICE KANNEH DELIVERED THE OPINION OF THE COURT

The records before us reveal that the Liberia Revenue Authority (LRA), acting in its statutory capacity under the Revenue Code of Liberia, Title 36 of the Liberian Code of Laws Revised, conducted a tax audit of respondent covering the fiscal years 2011–2015. Following the audit, the LRA assessed the respondent with a tax liability amounting to US\$2,517,535.51, comprising of penalties and interest.

The respondent objected to the assessment, and an administrative review was conducted, resulting in the confirmation of the tax liability of US\$2,517,535.51

found by the auditors. Dissatisfied, the respondent failed to settle the assessed amount, whereupon the LRA instituted an action before the Tax Court for Montserrado County to compel payment.

Upon the conclusion of trial, the Tax Court judge rendered final judgment in favor of the Movant holding the respondent liable in taxes amounting to US\$2,099,667.19. The respondent entered exception to the judgment and announced an appeal to this Honorable Court. The records reveal that the respondent, on August 2, 2022, completed all the acts required by Civil Procedure Law, Rev. Code 1:51.4, namely: (a) announcement of appeal; (b) filing of bill of exceptions; (c) filing of appeal bond; and (d) service and filing of notice of completion of appeal. The movant nonetheless filed a motion to dismiss, asserting that the respondent failed to cause the transmittal of the record to this Court within the ninety-day period following rendition of the final ruling, as required by the Civil Procedure Law, Rev. Code 51.11.

The respondent, resisting the motion, contends that the duty to transmit the record is not imposed upon the appellant but upon the clerk of the trial court. The respondent insists that it complied fully with the statute governing the perfection of appeal, and that any subsequent failure by the clerk to transmit the record cannot be attributed to it. The respondent argues that it was never cited by the clerk for taxation of costs, a procedural step preceding transmission of the records; and that a litigant who has completed all jurisdictional requirements should not be penalized for the default of a court officer.

Having reviewed the records and the laws relied upon by the parties, this Court now determines that the issue to address is whether or not the respondent's failure to transcribe the records constitutes an abandonment of the appeal?

As indicated above, the primary contention of the movant is that following the completion of the mandatory steps under the appeal statute, the respondent neglected to transmit the records from the Tax Court beyond the ninety-day period prescribed by the appeal statute, that is, for over two (2) years since the respondent filed its notice of completion of appeal. Hence, the respondent's appeal should be dismissed.

This allegation was never denied nor rebutted by the respondent. It is the law that allegations not denied are deemed admitted. *In Re: Contempt Proceedings Against*

Daniel Tubman et al, Supreme Court Opinion, October Term, A.D. 2022; *TIC v. MOJ*, 42 LLR 174, 178 (2004). Hence, the respondent's failure to deny or rebut the allegation of the movant that the records were not transcribed for a time period of more than two (2) years is deemed an admission that the records were not transcribed to this Court for a time period of more than two (2) years.

At this juncture, we deem it appropriate to reiterate the contention of the appellant to the effect that transcription of the records is the statutory duty of the clerk and that the respondent's appeal should not be dismissed for the failure of the clerk to timely transcribe the records. However, this Court notes that while the failure to transcribe the records of cases on appeal from the lower court and have same forwarded to this Court is not one of those grounds stated for dismissal of an appeal, this Court in several decisional laws has interpreted Section 51.11 as placing the burden on the appellant to superintend the transcription and transmission of records on appeal from the lower court, and to ensure that such record are forwarded to the appellate court in a timely manner; that failure to do so is tantamount to abandonment of the appeal announced and the appeal may be dismissed therefor. *Dayrell v. Thomas and Moore*, 11 LLR 98100 (1952). This Court has in similar light dismissed several cases on appeal for the reason of abandonment where the appellant failed to superintend the transcription and transmission of the records on appeal in a timely manner. *Nat'l Housing and Savings Bank v. Gordon*, 35 LLR 323, 326 (1988); *Intestate Estate of A.B. Mars v. Alexander R. Freeman and Einanine Freeman*, Supreme Court Opinion, March Term A.D. 2023; *Intestate of Gobbeh Kamara v. The Intestate of Lamark Cox* (2023).

In the instant case, the records reveal that the respondent completed the filing and service of its notice of completion of appeal on August 2, 2022. A further review of the records shows that the records were transcribed to this Court in June 2025, that is, more than two (2) years following the service and filing of the notice of completion of appeal. The respondent has maintained that it did make payment for the transcription of the records, though late, as a means of superintending its case, but that it was due to the failure of the clerk to call her for the taxing of the records that led to the delay in the transcription of the records. This allegation was never denied nor rebutted by the movant. This Court has held in a litany of Opinions that allegations not denied are deemed admitted. *In Re: Contempt Proceedings Against Daniel Tubman et al*, Supreme Court Opinion, October Term, A.D. 2022; *TIC v.*

MOJ, 42 LLR 174, 178 (2004). Hence, the movant's failure to deny or rebut the allegation that the respondents paid the clerk to transcribe the records, is deemed an admission that the respondents indeed made payment to the clerk of the lower court for the transcription of the records to this Court.

Hence, where the appellant has complied with all jurisdictional requirements for the perfection of an appeal under Civil Procedure Law, Rev. Code 1:51.4, and has made payment for the transcription of the records to this Court, though late, coupled with the fact that the appeal records are already before this Court albeit beyond the statutory period, we will proceed to hear the appeal on its merits.

Meanwhile, the appellant's counsel having paid for the transcription of the records without the statutory period is hereby fined the sum of Five Hundred United States Dollars (US\$500.00) to be paid in forty-eight (48) hours and present a receipt to the Marshall.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss the appeal is hereby denied and the appeal is ordered proceeded with on its merits. Costs are to abide final determination of this appeal. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellors Aaron B. Kparkillen, Bruce Quaye and Powel Duahn appeared for the movants. Counsellor E. Jidu Johnson Sarvice appeared for the respondent.