

the respondent noted exceptions to this final ruling and announced an appeal to the Full Bench of the Supreme Court.

The parties do not dispute, that on March 24, 2025, the respondent filed its approved bill of exceptions and thereafter filed an appeal bond and service and filing of its notice of completion of appeal; thereby, placing their appeal legally before the Supreme Court.

Notwithstanding the completion of the mandatory steps for the perfection of an appeal under the appeal statute, on November 3, 2025, the movant filed a nine-count motion to dismiss the respondent' appeal, contending basically that although the respondent finalized all of the statutory steps under Section 51. 4 of the appeal statute for the perfection of their appeal, however, the respondent failed to superintend the transcription of the records to this Court for a period spanning five (5) months, which dereliction, the movant insists, is equivalent to an abandonment of their appeal, thereby constituting a legal ground for the dismissal of the appeal.

On November 21, 2025, the respondent filed an eighteen-count resistance to the motion to dismiss arguing essentially that it (respondent) superintended the transcription of the records in May, 2025 by making payment to the clerk of the trial court; that when its counsel did a follow up with the clerk of the lower court to inquire as to the status of the transcription of the records, it was discovered that certain important documents were missing from the case file; that the respondent suggested that the clerk invite movant's counsel for comparison of the case files and corrections of the said documents; that the respondent on several occasions reached out to the clerk reminding him that time is fast spent; that due to the absolute importance and urgency of the matter, the respondent on July 9, 2025, did a communication to the clerk again reminding him that any further delay could affect his client's case; that the transcription of the records is the sole responsibility of the clerk of the lower court from which the appeal is taken; hence, the respondent having superintended the transcribing of the records by making payment to the clerk, it (respondent) cannot be held liable for the failure of the clerk of the lower court to transcribe the records to the Supreme Court; and that failure to transcribe the records is not a statutory ground for the dismissal of an appeal. The respondents therefore prayed this Court to deny the motion to dismiss and proceed to hear their appeal on its merits.

The Civil Procedure Law, Rev. Code 1:51.11 provides that: *“The clerk of the court from which the appeal is taken shall make a record containing certified copies of all the writs, returns, notices, pledges, motions, applications, certificates, minutes, verdicts, decisions, rulings, orders, opinions, judgments, bill of exceptions, and all other proceedings in the case. He shall transmit his record with a copy of the appeal bond to the appellate court within ninety (90) days after rendition of judgment. The clerk of the appellate court shall docket the record forthwith and forward a receipt to the clerk who transmitted it.*

The Supreme court has held in numerous cases that the failure of the clerk of the trial court to forward the records on an appeal to the Supreme Court within ninety days, as required by statute, is not attributable to neglect of the appellant, if he has exerted every effort to have the records transmitted within the time prescribed by law; and the clerk's failure does not under the circumstances constitute a basis for dismissal of the appeal; that the Supreme Court will rarely dismiss a case because of the lateness of the records reaching it when all of the other requirements have been met; that it is the responsibility of the clerk of the trial court, and not the appellants, to transcribe and transmit the records, especially after the respondents/appellants had superintended the records; and that the only grounds upon which an appeal can be dismissed are those specified by statute. *The Intestate Estate of A.B. Mars v. Alexander R. Freeman and Einaine Freeman*, Supreme Court Opinion, March Term A.D. 2023; *Gbartoe et.al v. Doe*, 40 LLR 150, 156 (2000); *Brown v. General Construction, Inc.*, 40 LLR 284, 286 (2000); *Liberia Telecommunications Corp v. Tyler*, 37 LLR 223, 225 (1993).

The respondent has relied on the above-stated provision of the appeal statute and numerous Opinions of this Court to include *Liberia Telecommunications Brown v. General Construction Company v. Doe*, 40 LLR 284 (2000); *Gbartoe and Gbartoe v. Doe* where this Court held "the failure of the clerk of the trial court to transcribe the records on an appeal to the Supreme Court within ninety days, as required by statute, is not attributable to neglect of the appellant, if he has exerted every effort to have the records transmitted within the time prescribed by law, and the clerk's failure does not under any circumstances constitute a basis for the dismissal of the appeal," and has contended vehemently that the transcription of the records to this Court is the sole responsibility of the clerk of the lower court from which the appeal is taken; hence, as per the plain meaning of the appeal statute, the fact that the respondent paid the clerk to transcribe the records, it (respondent) cannot be held liable for the failure of the clerk of the lower court to transcribe the records to this Court.

We see from the records that the respondent in count 4 of its resistance alleged that it made payment to the clerk of the trial court as a means of superintending the transcription of the records to this Court. This allegation was never denied nor rebutted by the movant. This Court has held in a long line 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. Additionally, a further inspection of the trial records reveals that the clerk of the trial court transcribed the records to this Court on November 20, 2025, seventeen (17th) days after the filing of the present motion to dismiss appeal, confirming the respondent's allegation that they did superintend the transcription of the records, but it was the negligence of the clerk of the trial court which led to the late transcription of the records to this Court.

Moreover, all parties agree that the statutory requirements essential for the completion of an appeal as required under Section 51.4 of the Civil Procedure Law were fully complied with by the respondents. The said requirements are:

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

Notwithstanding the statutory grounds for the dismissal of an appeal, this Court has opined in several of its Opinions that “where the appellant notes exceptions to an adverse judgment, prays for an appeal and files an approved bill of exceptions and a legal bond, thus depriving the lower court of jurisdiction, but the appellant does not superintend the records to the appellate court within the timeframe as required by law, the appellate court will dismiss the appeal and grant a petition by the successful party below to have the judgment of the lower court enforced especially where the failure of the appellants/respondents to transmit the records amounted to an abandonment of the appeal. *Elizabeth Marsh v. The United Muslims*, Supreme Court Opinion, October Term, A.D. 2024.

Hence, the records having established that the clerk of the trial court transcribed and transmit the records, although beyond the statutory period of ninety (90) days, and the records reveal that respondent indeed superintended the transcription of the records, but it was due to the negligence of the clerk that the transcription of the records to this Court was delayed, the motion to dismiss the appeal cannot be upheld, and we so hold.

This Court must again warn clerks of the lower courts to be scrupulous in fulfilling their statutory roles where transcription of the records has been superintended as failure to perform their tasks with extreme seriousness will lead to stringent administrative actions from this Court.

The Office of the Court Administrator is mandated to investigate the issue regarding the delay in the transcription of the records to this Court beyond the ninety-day statutory period and if the clerk is found wanting, the appropriate administrative action must be taken.

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 to abide final determination of this appeal. AND IT IS HEREBY SO ORDERED.

When this case was called for hearing, Counsellor William A.N. Gbaintor appeared for the movant. Counsellors Varney Sherman and Benjamin Stewart, Jr. appeared for the respondent.

Motion denied.