

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2026

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

The Intestate Estate of Mayouba Barlo by and)
thru its Attorney-In-Fact, Mulbah Barlo of the)
City of Kakata, Margibi County, Republic of)
Liberia.....Movant)

Versus) MOTION TO DISMISS APPEAL

)
Jimmy Jallah and Varney Swaray also of the City)
of Kakata Margibi County, Republic of Liberia)
.....Respondents)

GROWING OUT OF THE CASE:

Jimmy Jallah and Varney Swaray also of the City)
of Kakata Margibi County, Republic of Liberia)
.....Appellants)

Versus) APPEAL

)
The Intestate Estate of Mayouba Barlo by and)
thru its Attorney-In-Fact, Mulbah Barlo of the)
City of Kakata, Margibi County, Republic of)
Liberia.....Appellee)

Heard: April 2, 2026

Decided: May 20, 2026

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

The Intestate Estate of Mayouba Barlo, the movant, thru his Attorney-In-Fact, Mulbah Barlo, filed before this Court, a motion to dismiss the appeal announced by Jimmy Jallah and Varney Swaray, the respondents, in the Thirteenth Judicial Circuit Court for Margibi County.

The movant in this motion to dismiss is seeking the dismissal of the appeal announced by the respondents on July 2, 2025 from the final ruling delivered by the trial judge, Her Honor Golda Bonah Elliott, Assigned Circuit Judge. In the said motion to dismiss, the movant states three contentions as justification for the dismissal of this appeal: the failure of the respondents to file the notice of completion of appeal within statutory time; the respondents' failure to file along with the notice of completion of appeal an appeal bond; and the respondents' failure to transcribe the records of the appeal to the Supreme Court in the statutory time.

The respondents filed their resistance to the movant's motion to dismiss appeal and refuted the three contentions of the movant: that their notice of completion of appeal was executed consistent with law because if this was never the case, the movant would have gotten a clerk's certificate in support of its allegation; that they fulfilled every legal requirement pursuant to section 51.4, page 249 of 1LCLR; and maintained that they filed bill of exceptions, appeal bond and notice of completion of appeal within the period allowed by law.

Following a careful review of the parties' contentions, the issue dispositive of this motion to dismiss appeal is whether or not the respondents breached any of the mandatory requirements of the appeal statute. We answer in the affirmative.

The *Civil Procedure Law, Rev. Code:1.51.4* laid down the requirements for completion of an appeal which states that "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 exceptions; (c) Filing of 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."

The certified records show that the respondents, following the announcement of the appeal, filed their bill of exceptions within eight days after the announcement of the appeal, same being July 10, 2025; that thereafter, respondents served copy of their notice of completion of appeal on the movant on September 3, 2025, and also filed with the trial court on the next day, that is to say, September 4, 2025, their notice of completion of appeal.

It is an elementary principle of law that every lawyer practicing in this jurisdiction must know the fundamental processes of the appeal statute. This Supreme Court is replete with Opinions to the effect that the failure to adhere to any of the requirements stated therein is a ground to dismiss the appeal.

From an arithmetic calculation of the sixty day requirement of the appeal statute, the respondents had from the date of the announcement of the appeal to the notice of completion of appeal, sixty (60) days to comply with the said statute. It is clear that the trial court having ruled on July 2, 2025, the respondent had up to September 1, 2025 to fall within the scope of the appeal statute. Further, despite the respondents' contention that they met all of the statutory requirements, the respondents did not show any evidence in support of their contention; that is to say, to prove that the final ruling of the trial judge was not

rendered on July 2, 2025. The records certified before us reveal that the notice of completion of appeal was served on the movant on September 3, 2025 and thereafter, filed with the trial court on September 4, 2025 which was on the sixty-two (62) days or two days beyond the statutory time; and on the sixty-three (63) days or three days beyond the sixty-day statutory period for perfecting an appeal, respectively.

The second contention of the movant, which has to do with the respondents' failure to file an appeal bond, the records show that the respondents did not file an appeal bond, which negligence also contravenes the *Civil Procedure Law, Rev. Code:1.51.4(c)* that provides for the filing of an appeal bond. This Court says that, this section on the filing of an appeal bond is another mandatory step on appeal, which when violated, is ground for dismissal thereof. *The Civil Procedure Law, Rev. Code:1.51.8* states that "Every appellant shall give an appeal bond in an amount to be fixed by the court, with two or more legally qualified sureties, to the effect that he will indemnify the appellee from all costs or injury arising from the appeal, if unsuccessful, and that he will comply with the judgment of the appellate court or of any other court to which the case is removed. The appellant shall secure the approval of the bond by the trial judge and shall file it with the clerk of the court within sixty days after rendition of judgment. Notice of the filing shall be served on the opposing counsel. A failure to file a sufficient appeal bond within the specified time shall be a ground for dismissal of the appeal; provided, however, that an insufficient bond may be made sufficient at any time during the period before the trial court loses jurisdiction of the action. This Court says that the filing of the appeal bond is to indemnify the appellee if the outcome of the appeal turns against the appellant. Therefore, the respondents having failed to file an appeal bond, the appeal announced in the court below is dismissible by law.

Finally, the movant final contention is that the respondents failed to transcribe the records of appeal to the Supreme Court beyond the ninety (90) days period allow by statute. This Court had always maintained that the delay to transcribe the records of appeal from the trial court to the Supreme Court is not a ground for the dismissal of an appeal, unless the failure to transcribe said records on appeal constitutes abandonment of the appeal. Further, this Court opined in the *Robert J. Brown v. General Construction, Inc.* case, referencing the case *Tarpeh et al. v. Kru and Wolo*, 21 LLR 62 (1972), held that "delay in transmission of the records on appeal to the appellate court beyond the timely (90) days allowed is not a ground for dismissal." However, the Supreme Court has also held that it will not dismiss an appeal for the failure of the respondents to timely transcribe the trial records, except, where this Court determines that the failure to do so is tantamount to abandonment, based on the facts and circumstances of the case. *Intestate Estate of John Gbedze v. Mr. Aboubakar*

Diallo, decided: December 19, 2024. Further, "the only grounds upon which an appeal can be dismissed are those specified by statutes." *Cess-Pelham v. Republic*, 14 LLR 161, 162 (1960); *Kolenky v. The Liberian Eastern Timber Corporation*, 21 LLR 252, 254 (1972). *Robert J. Brown v. General Construction, Inc.* 40 LLR 284, 287 (2000).

We note also for the records, that the period allow for the transcription of the records of appeal to the Supreme Court would have been October 30, 2025 which was not done by the respondents.

The fact that the respondents attached a Clerk's Certificate dated March 17, 2026, concerning the transcription of the records, does not vitiate the mandatory requirements of the appeal statute because the respondents, having failed to comply with two of the mandatory requirements of the appeal statute, the issue of the transcription of the records before this Court becomes moot.

We hold that the parties having appeared and a review of the records having shown that the respondents failed to file their appeal bond and filed notice of completion of appeal three days beyond the sixty-days allow by statute, the appeal is dismissible by law.

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

Motion to dismiss appeal granted.

When the Case was called for hearing, Counsellor Robert Beer of the Legacy Partners and Associates Inc., appeared for the movant. Counsellor Lavela B. Walker of the Galaxy and Associates Law Firm appeared for the respondents.