

McKINLEY K. CUMMINGS, Movant, *v.* **HIS HONOUR M. WILKINS WRIGHT**,
Resident Circuit Judge, Sixth Judicial Circuit, and **CLARENCE MOMOLU AND WIFE**,
Respondents.

JUDGMENT WITHOUT OPINION

Decided January 25, 1996.

When this case was called for hearing, Counsellor William Godfrey appeared for the movant and Counsellor Richard McFarland appeared for the respondents. The motion made was for dismissal of the appeal for apparent abandonment thereof by the appellant's failure to have the certified copies of the records sent up from the court below.

Counsel for movant was asked if failure to forward copies of the records of the trial court to this appellate court was a ground for dismissal of an appeal under provisions of Civil Procedure Law, Rev. Code 1:51.11. He acknowledged that there was no such provision under the statute. There being no provision for dismissal of an appeal on the ground stated by the movant, Counsellor McFarland, for the respondents, promised to ensure that the records would be forwarded in the shortest possible time, in as much as the appeal was taken since June, 1995. Therefore, it is hereby adjudged that the motion to dismiss the appeal on grounds of the failure of the clerk of the trial court to forward the transcribed records of the case is, and the same is hereby denied. The Clerk of this Court is commanded to send a notice to the clerk of the court below to have the records forwarded to the Supreme Court without further delay. Cost of these proceedings are disallowed.