

**MADAM KIABEH DUYAN**, Appellant, v. **JOHN K. WALKER**, Appellee.

JUDGMENT WITHOUT OPINION

Decided: January 9, 1990.

At the call of this case, Counsellor Alfred B. Flomo of the Dugbor Law Firm appeared for appellee. No one appeared for appellant. Counsel for appellee brought to the attention of the Court that the appellant, though served with a notice of assignment, refused to acknowledge the service thereof. The counsel then applied to Court to consider appellant's non-appearance as an abandonment, citing section 51.16 of the Civil Procedure Law, Rev. Code 1, governing dismissal of appeal for failure to proceed. The said section reads thus.

"An appeal may be dismissed by the trial court on motion for failure of the appellant to file a bill of exceptions within the time allowed by statute and by the appellate court after filing of the bill of exceptions for failure of the appellant to appear on the hearing of the appeal, to file an appeal bond, or to serve notice of completion of the appeal as required by statute."

After carefully studying the application and applying the controlling statutes, it is hereby adjudged that the appeal be and the same is hereby dismissed for abandonment. The Clerk of this Court is hereby ordered to send a mandate to the trial court to resume jurisdiction and enforce its ruling. Costs are ruled against the appellant. And it is hereby so ordered.

NOTE: Mr. Justice Kpomakpor, being absent when this case was heard, did not sit. Hence, did not sign this judgment.