

**IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC
OF LIBERIA, SITTING IN ITS MARCH TERM, A.D. 2017.**

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEHASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.ASSOCIATE JUSTICE
BEFORE HIS HONOR: PHILIP A.Z. BANKS, IIIASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH ASSOCIATE JUSTICE

G. Dahn Sherman of District # 9, Nimba)
County, Liberia.....MOVANT)
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)
Versus) Motion to Dismiss Appeal
)

Dr. Michael P. Slawon, Aspirant, Liberty Party,)
District # 9, Nimba County, Republic of Liberia)
.....RESPONDENT)
)
)

Growing out of the case:)
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)
)

Dr. Michael P. SlawonAPPELLANT)
)
Versus) Appeal
)

G. Dahn Sherman and the Board of Commissioners) National
Elections Commission, all of the City of) Monrovia,
Liberia.....APPELLEES)
)
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Growing out of the case:)
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 Dr. Michael P. Slawon, Aspirant, Liberty Party,)
 District # 9, Nimba County, Republic of Liberia)
APPELLEE)

Growing out of the case:)
)
)
 G. Dahn Sherman of District # 9, Nimba)
 County, Liberia.....MOVANT)
) Nomination
 Versus) Code of Conduct
 Violation)
)
 Dr. Michael P. Slawon, Aspirant, Liberty Party,)
 District # 9, Nimba County, Republic of Liberia)
RESPONDENT)

HEARD: September 5, 2017

Decided: September 12, 2017

Key Words: **Jurisdiction of the Supreme Court on Elections Matters**

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

On July 2, 2017, the National Elections Commission (NEC) commenced the nomination process for prospective candidates desirous of contesting the General and Presidential Elections for October 10, 2017. Pursuant thereto, on July 3, 2017, the Liberty Party, submitted the name of the respondent/appellant, Dr. Michael P. Slawon to the National Elections Commission as its representative candidate to contest the Elections in District # 9, Nimba County.

On July 6, 2017, the movant/appellee, Mr. G. Dan Sherman, filed a complaint before the Chairman of National Elections Commission, Counsellor Jerome G. Korkoya stating that the respondent/appellant is a presidential appointee currently holding appointments as Director General, Commission of Higher Education, Republic of Liberia and Chairman of the Board of Directors, Grand Bassa Community College; that given his current appointments the respondent/appellant is in violation of the Code of Conduct; and that the National Elections Commission(NEC) should reject the respondent/appellant’s nomination and disallow him from contesting in District # 9, Nimba

County. The movant/appellee's letter reads thus:

***“CONCERNED CITIZEN OF DOE
TAPPITA STATUTORY DISTRICT
LOWER NIMBA COUNTY***

July 6, 2017

*Honorable Jerome Korkoya Chairman
National Elections Commission (NEC) Republic of
Liberia*

Dear Honorable Chairman:

It has been intimated to me as a citizen of Lower Nimba County, especially Doe Chiefdom in Electoral District #9, Nimba County, that Dr. Michael P. Slawon with cell# 0886-660067, Director of Higher Education of the Republic of Liberia and Chairman of the Board of Directors of the Grand Bassa Community College, is intending to contest in the 2017 election on the Liberty Party ticket by submitting application to NEC to contest as Representative Candidate of District #9 in Nimba County, even though he did not resign from his appointed position aforementioned. This act by Dr. Slawon is a complete violation of the code of conduct.

I therefore wish to call on the National Elections Commission to do justice by denying Dr. Slawon based on the Code of Conduct and ask him to produce his letter of resignation from his Presidential Appointment. Further, Dr. Slawon is a member on the Board of almost all of the Community Colleges in the Republic of Liberia appointed by the President.

I am of the highest conviction that justice will prevail in this case and that the National Election Commission will protect and defend the Constitution and all laws of the Republic of Liberia to the letter.

Kind regards. Sincerely yours,

G. Dan Sherman

CELL#: 0770375057/0886-499247”

Our review of the above quoted complaint shows that besides the mere assertion by the movant/appellee that he is a citizen of lower Nimba County, the movant/appellee gives no further identification of himself as a registered voter of District # 9 Nimba County, by proffering his voter identification card or number; that he is an agent of a political party or a candidate or a political aspirant contesting the representative seat in the said district # 9, Nimba County; or a political party, coalition or alliance that would have evidenced his eligibility to file a complaint regarding alleged elections offences or violations. Pursuant to Chapter 5, section 5.9 of the New Elections Law and the

NEC's Compilation of Regulations at Article 3, a registered voter, a candidate, a political party, coalition or alliance, or an agent of a political party or candidate is qualified to file an election complaint at any stage of the election. In fact, Article 3 section 3.2 of the Regulations is specific in its mandate that *"a challenge or a complaint must not be based on hearsay and must be made by an individual who has personal knowledge or was a witness to the matters that are the basis of the challenge or the complaint."* The very first sentence of the movant/appellee's complaint is clearly in violation of this provision of the law, when it states that, *"it has been intimated to me..."* Regrettably however, this issue which borders on standing having not been challenged by the respondent/appellant, this Court is precluded from making comments regarding the matter.

The records show that attached to the complaint was a facsimile of an appointment letter dated March 20, 2012, under what appears to be the signature of the President, Her Excellency Madam Ellen Johnson-Sirleaf, re-appointing the respondent/appellant as Director General for Higher Education, Republic of Liberia. We herein quote the President's Letter of re-appointment to wit:

"EJS/MOS/RL/0459/2012

March 20, 2012

Hon. Dr. Michael Slewon Director
General
National Commission on Higher Education Monrovia,
Liberia

Dear Hon. Slewion,

I am pleased to re-appoint you to the position of Director General, National Commission on Higher Education, Republic of Liberia.

It is expected that you will take office immediately and if not already submitted, you are required to file by April 3, 2011 with the Anti-Corruption Commission the Declaration of Income, Assets and Liabilities.

I trust that you will justify the confidence I have reposed in you and that you will execute your responsibilities to the credit of yourself and our country.

Sincerely,

Ellen Johnson-Sirleaf'

The complaint was forwarded to Hearing Officer, Counsellor P. Teplah Reeves, who cited the parties to a hearing on August 3, 2017. At the hearing, the respondent/appellant stated that he was hired as a Civil Servant and therefore not a presidential appointee; that he went through a vetting process headed by the Minister of Education; that the appointment letter of March 20, 2012, was not delivered to him; and that he had never seen the letter until it was presented to the investigation by the

movant/appellee.

On the same day, that is, August 3, 2017, the Hearing Officer, Counsellor P. Teplah Reeves, rendered her ruling holding that the appointment letter of March 20, 2012, was not sufficient evidence to prove that the respondent/appellant is a presidential appointee; and hence, the complaint was denied. The movant/appellee excepted to the ruling, announced an appeal to the Board of Commissioners of the NEC and subsequently filed his bill of exceptions, thus perfecting the appeal process from the hearing officer to the Board of Commissioners of the NEC

On August 17, 2017, the Board of Commissioners of the NEC entertained arguments from both parties and thereafter, on the same date, rendered its final ruling wherein it reversed the decision of the hearing officer on grounds that the respondent/appellant was a presidential appointee; that he was in violation of the Code of Conduct; and that he committed perjury when he swore under oath that he was not a presidential appointee. Relevant portion of the Boards' ruling of August 17, 2017, denying the respondent/appellant's application for certification to contest the October 2017 elections are quoted as follows:

“During argument before us, counsel for the Appellee admitted that the Appellee, Dr. Slawon, presently serves as Director General of the National Commission on Higher Education and also on the Board of several community colleges in the Republic. We also observed from the record a letter dated March 20, 2012, wherein Her Excellency, President Ellen Johnson-Sirleaf appointed the Appellee Dr. Michael

P. Slawon to the position of Director General of the National Commission on Higher Education, Republic of Liberia.

We note that the Honorable Supreme Court in the case: Selena Mappy-Polson v. Republic of Liberia (March 2017) upheld the constitutionality of the appointee from engaging in political activities, canvassing or contesting for elected public offices. Section 5.2 of the Code of Conduct requires that a presidential appointee wishing to engage in political activities, canvass or contest for an elected public office must resign his/her position two or three years prior to the said election.

Based on the evidence produced at the trial, coupled with Appellee's admission that he is currently holding the position(s) to which he was appointed by the President, Appellant Slawon was required to resign as a condition to contest the 2017 representative election in District #9, Nimba County. Because Appellant Slawon failed to resign as required by law before applying to the NEC to contest the ensuing elections, we hold that he is in egregious violation of Section 5.1 of the Code of Conduct. See Kamara v. NEC, decided by the Honorable Supreme Court, July 2017. Accordingly, we are duty bound to reject and revoke his letter of acceptance to contest the 2017 General Elections.

We note further that in his notarized answers to questions 7 thru 9 of the aspirant “questionnaire to establish residency, domicile and compliance with Code of Conduct for public officials”, such as Dr. Slawon, Appellee untruthfully answered “no” to the question as to whether he has been appointed to a government position during the past three years.... We hold that Dr. Slawon's false answer to the

questions referenced herein constitute sufficient legal grounds to revoke and nullify his acceptance letter issued by the NEC.

WHEREFORE AND IN VIEW OF THE FOREGOING, it is the Final Ruling of this Board that the August 3, 2017 final ruling of the Hearing Officer in these proceedings, is hereby reversed; the Nomination Committee's recommendation for Appellee Dr. Michael P. Slawon to contest as a representative candidate in District #9, Nimba County is hereby rejected and overruled; and the acceptance letter issued based on false representation by Appellee Dr. Slawon is hereby ordered revoked, and Dr. Slawon's name is ordered removed from the final listing of accepted candidates for the 2017 General Elections. AND IT IS HEREBY SO ORDERED."

The respondent/appellant excepted to this final ruling of the Board, announced an appeal to the Supreme Court, and filed his bill of exceptions on August 21, 2017.

On August 22, 2017, the movant/appellee filed a four (4) count motion to dismiss the respondent/appellant's appeal before the Board of Commissioners of the NEC, alleging that the respondent/appellant neglected to file his bill of exceptions on August 19, 2017, and thus, was in violation of Chapter 5, section 5.12(6) of the New Elections Law which prescribe a 48- hour period to complete an appeal from the NEC to the Supreme Court. As proof of this averment, the movant/appellee attached a certificate dated August 21, 2017, issued by the clerk of the NEC's Board, authenticating the absence of the respondent/appellant's bill of exceptions from the records as at August 21, 2017.

On August 23, 2017, the respondent/appellant filed an eleven (11) count resistance to the motion stating that due to the Congress for Democratic Change (CDC)'s official campaign launching on Saturday, August 19, 2017, the respondent/appellant was unable to file his bill of exceptions and that as the next day, August 20, 2017 was a Sunday, a non-working day, he had no alternative but to file same on the next working day, that is, Monday, August 21, 2017; that Chapter 5 section 5.12(6) of the New Elections Law, upon which the movant/appellee was relying to have his appeal dismissed and which provides for a 48-hour period to perfect an appeal from the NEC to the Supreme Court, was inapplicable to the respondent/appellant as same contravenes Article 83 of the Constitution which provides for a period of 7 (seven) days to appeal an adverse ruling from the NEC to the Supreme Court. As we have determined that counts four (4) and seven (7) of the resistance which speak to this issue are germane to these proceedings, we quote same herein below, to wit:

"4) That as to count three (3) of the motion to dismiss the appeal, respondent says that section 5.12, subsection 6 says that a declaration of the Commission on an appeal from the decision of a magistrate or chief hearing officer, may be appealed to the Supreme Court within forty-eight hours after the posting of the decision. This provision of the Elections Law violates Article 83 of the 1986 Constitution of Liberia which states in part that the Elections Commission shall within seven (7) days of receipt of the Notice of Appeal, forward all the records in the case to the Supreme Court, which not later than seven days thereafter, shall hear and make its determination. In the instant case, the respondent filed its bill of exceptions on Monday, the 21st and accordingly paid the required fee of

US \$2,000.00 to have the matter transferred to the Honorable Supreme Court of Liberia for final determination.

7) And also, respondent submits and says that assuming, without admitting, that section 5.12 subsection six (6), relied upon by the movant to file the motion to dismiss the appeal, which is not the case, respondent says that the ruling was delivered in the evening hours of the 17th instant and that it could not have filed its bill of exceptions particularly on Saturday, August 19, 2017, due to the traffic congestion caused by the launch of CDC's campaign which made it difficult for the respondent to have reach the Commission in time to file. With Sunday being a holiday, its bill of exceptions was filed on Monday, the 21st instant. Accordingly, count three (3) of the movant's motion is a fit subject for dismissal."

On the same day, August 23, 2017, the Board of Commissioners of the NEC listened to arguments on the motion and the resistance thereto, and on August 25, 2017, rendered its final ruling stating, among other things, that the seven (7) days' time frame for an appeal from the NEC's Board to the Supreme Court provided for in Article 83(c) of the Constitution was applicable only to post elections challenges; that the 48-hour period stipulated in Chapter 5, section 5.12(6) of the New Elections Law was the applicable law to the respondent/appellant's appeal and that the respondent/appellant should have filed a motion for enlargement of time if he was unable to file his bill of exceptions within the prescribed time frame. We quote herein below the relevant portion of the Board's final ruling of August 25, 2017, as follows:

"The record shows that the Board rendered final judgment on August 17, 2017 ordering that the name of Respondent Dr. Michael P. Slawon be stricken from the final list of candidates based on Respondent's false representation to the Candidate Nomination Committee, and based on Respondent's violation of Sections 5.1 & 5.2 of the National Code of Conduct. Respondent was present along with his Counsels. Not satisfied with the said ruling of the Board, Respondent excepted and announced an appeal to the Honorable Supreme Court.

Counting 48 (forty eight) hours from the posting of the said final decision, Respondent had up to Saturday, the 19th day of August, A.D. 2017 to present his Bill of Exceptions to the Board for approval along with proof of paying the required fees for Recognizance as provided for under Section 6.8 of the New Elections Law. The Head Office of the NEC was opened on Saturday, August 19, 2017 for business. Respondent does not dispute this fact. He argued however that he could not make it to the office of the NEC due to the traffic congestion cause by the CDC campaign launch. He further argued that Section 5.12 subsection 6 of the New Elections Law violates Articles 20(b) and 83(c) of the Liberian Constitution.

With respect to Respondent Counsel's argument concerning CDC's campaign launch, the Board asked Respondent why he did not take advantage of the statute providing a party with the option of filing for enlargement of time. Counsel replied that Respondent did not deem it necessary to file for enlargement

of time because they were in the process of preparing their Bill of Exceptions. The Board is not persuaded by this argument.

The record before us shows that on August 17, 2017, the Board of Commissioners of the National Elections Commission handed down its Final Ruling in the case concerning the Code of Conduct violation involving Mr. G. Dahn Sherman and Dr. Michael P. Slawon. The Board's Final Ruling was in favor of Mr. G. Dahn Sherman thereby reversing the Hearing Officer's Ruling. The Respondent, Dr. Michael P. Slawon, not satisfied with the ruling, took exception and announced appeal to the Honorable Supreme Court of the Republic of Liberia.

Article 20(b) of the 1986 Constitution provides that "the right of an appeal from a judgment, decree, decision or ruling of any court or administrative board or agency, except the Supreme Court, shall be inviolable. The Legislature shall prescribe rules and procedures for the easy, expeditious and inexpensive filing and hearing of an appeal".

We note that right of an appeal from a decision of the Board challenging an Aspirant's candidature is provided for and regulated under Section 5.12(6) of the New Elections Law of 1986.

We further note that Article 83(c) of the Liberian Constitution provides that "the returns of the elections shall be declared by the National Elections Commission not later than fifteen days after the casting of ballots. Any party or candidate who complains about the manner in which the elections were conducted or who challenges the results thereof shall have the right to file a complaint with the National Elections Commission. Such complaint must be filed not later than seven days after the announcement of the elections".

We note that the seven day period in Article 83(c) only applies to challenges to the results of an election. Because the language of Section 5.12, subsection 6 of the New Elections Law is mandatory, and because Respondent failed to comply with said statute, we hold that his appeal is hereby dismissed.

WHEREFORE AND IN VIEW OF THE FOREGOING, the final ruling of the Board of Commissioners of August 17, 2017 is confirmed and affirmed; the Movant's Motion to Dismiss the Appeal is hereby granted and appeal announced by Respondent in this matter is hereby dismissed. AND IT IS HEREBY SO ORDER."

The respondent/appellant excepted to the above final ruling by NEC's Board on the motion dismissing his appeal, and announced an appeal therefrom to the Supreme Court. On August 26, 2017, the respondent/appellant submitted his bill of exceptions to the Board for approval and filed same with the Clerk of this Court on August 28, 2017. On August 31, 2017, the movant/appellee filed another motion to dismiss the appeal, this time before the Supreme Court, stating that this Court lacks jurisdiction over the appeal, in that the respondent/appellant neglected to timely file his bill of exceptions from the Board's final ruling of August 17, 2017, and that the appeal had already been dismissed by the Board of Commissioners of the NEC.

At the call of the case for arguments on September 4, 2017, this Court observed from the records and the minutes that the respondent/appellant's lawyers neglected to file resistance to the motion to dismiss the appeal and also did not make any request to spread their resistance on the records of the Supreme Court. But be that as it may, the Supreme Court however consolidated the motion to dismiss and the appeal, given the fact that this Court is obligated by law to hear and determine elections cases expeditiously and without any delay. Pursuant thereto, lawyers from both sides argued their theory of the case and the laws they believed to be supportive of their respective positions.

This Court having carefully examined the records and the contentions of the parties determined that there are two salient issues dispositive of this case. The issues are:

- 1) Whether or not the Supreme Court has jurisdiction to hear and determine this appeal?
and
- 2) Whether or not the Board of Commissioners of the NEC erred in reversing the ruling of the Hearing Officer, thus denying the respondent/appellant's application to contest the ensuing October 10, 2017 elections?

This Court shall proceed to dispose of the first issue given the fact that the said issue mandatorily compels us to determine whether the Court is seized with the requisite jurisdiction to answer the second issue which delves into the merits of the appeal. The Supreme Court has consistently held as follows:

“whenever the issue of a court's jurisdiction is raised, every other thing in the case becomes subordinated until the court has determined its jurisdiction to hear and dispose of the particular matter. This is true because if a court lacks jurisdiction to entertain a matter, whatever decision or judgment is rendered by it is a legal nullity. Therefore, it is necessary that the court should determine its jurisdiction over the question which its judgment assumes to answer or give relief.” *MIM Liberia Corporation v. Towebe*, 30LLR 611(1983); *Kamara v. Chea & Satto*, 31LLR 511(1983); *Scanship (LIB) Inc., v. Flomo*, 41LLR 181, 186 (2002); *The Intestate Estate of the late Chief Murphey-Vey John et. al. v. The Intestate Estate of the late Bendu Kaidii et. al.*, 41LLR 277, 282 (2002); *The Management of Paynesville City Corporation v. The Aggrieved Workers of Paynesville City Corporation*, Supreme Court Opinion, March Term A.D. 2013; *Loiuse Clarke-Tarr v. Daniel K. Wright*, Supreme Court Opinion, March Term A.D. 2015; *The National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term A.D. 2017.

The principle of law on jurisdiction, contained in the above quoted cases, mandates us to determine whether the respondent/appellant did file his bill of exceptions within the time prescribed by law as would confer jurisdiction on the Supreme Court to hear the case on its merits and to make a final determination thereon.

In answering this query, we must state at the onset that the movant/appellee's reliance on Chapter 5, section 5.12(6) of the New Elections Law as a basis to dismiss the appeal for failure to complete the process within a 48-hour period is misapplied and inapplicable given the fact that the entire Chapter

5 which this provision is a part off, speaks only to voting and noting more. We take judicial cognizance that the Supreme Court, in recent times has recognized and acknowledged that Chapter 5, section 5.12(6) of the New Elections Law relating to appeals is not applicable to the candidates' nomination process or period, but rather, is concerned with only the voting process and irregularities arising therefrom. In the case, *National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term, A.D. 2017, the Court, in articulating its position on this provision of the New Elections Law, opined thus:

“We cannot accept Chapter 5 Sections 5.12(6) which the movant seeks to use as authority for asserting that the appellant had violated the appeal time frame requirement within which to file his bill of exceptions as the Chapter under which the provision falls, being Chapter 5 of the Elections Law, does not deal with candidates or aspirants registration or the registration process, but rather deals exclusively with voting. Accordingly, we hold that the procedures for the filing of complaints articulated in Chapter 5, and especially at subsection 5.9 through 5.12(6), apply squarely to the time of ‘voting’ and not ‘nomination of candidates’. Hence, the section relied upon by the movant/ appellee is not applicable to the instant case which involves candidates’ nomination or the nomination process, but rather that the section applies instead to challenges emanating from complaints on irregularities noticed during voting or connected to the voting process. We take note, and impress on counsel for movant to do the same, that each chapter of the Elections Law deals with separate and distinct topics or aspects of the elections and that unlike Chapter 4 which deals with the general conduct of the elections ranging from the setting up of voting precincts (4.1), polling places (4.2), Elections Writs (4.3), duty of the magistrate (4.4) through Nomination of Candidates (4.5) to the close of the polls (4.12), Chapter 5 only deals exclusively with ‘voting’ and nothing more”

We confirm and affirm the holding of the Supreme Court immediately cited herein above and hold that Chapter 5, section 5.12(6) of the New Elections Law is not applicable to this present case since the said provision of the law squarely applies to voting and voting alone.

Notwithstanding our holding, stated *supra*, this Court on the other hand, will also not give credence to or endorse the respondent/appellant's argument that Article 83(c) of the Constitution is the applicable law to this case and that pursuant thereto, the respondent/appellant had seven (7) days to complete the appeal process. A review of Article 83 (c) of the Constitution provides thus:

“The returns of the elections shall be declared by the Elections Commission not later than 15 days after the casting of ballots. [Our Emphasis] Any party or candidate who complains about the manner in which the elections were conducted or who challenges the result thereof shall have the right to file a complaint to the elections commission. Such complaint shall be filed not later than seven days after the announcement of the elections.

The Elections Commission shall, within thirty days of the receipt of the complaint, conduct an impartial investigation and render a decision which may involve a dismissal of the complaint or nullification of the election of a candidate. Any such political party or independent candidate affected by such decision shall not later than seven days appeal against it to the Supreme Court.” [our emphasis]

The reading of the above constitutional provision leaves no doubt that the said provision

unambiguously speaks to post-elections challenges and complaints and not pre-elections complaints. And we place great emphasis on the phrase: “***the returns of the elections shall be declared by the Elections Commission not later than 15 days after the casting of ballots***” in order to show that during the pre-elections period there is neither electoral returns nor are ballots cast. Hence, we hold that Article 83(c) of the Constitution is inapplicable to this case.

Given the fact that this Court has rejected the legal reliances, theories and principles of law advanced by the respective parties as they relate to time for the filing of an appeal from the final decision of the NEC to the Supreme Court with respect to pre-elections complaint such as the one before us, the question that we must now endeavor to answer is, what is the governing applicable law regarding this issue?

We diligently perused the provisions of the New Elections Law and the attendant Compilation Regulations promulgated by the NEC. Our perusal thereof reveal that the applicable provisions relating to pre-elections complaints, challenges and appeals are found in Articles 5 and 9 of the Regulations on Complaints and Appeals. Article 5, which is entitled ‘Candidate Nomination Challenges, reads thus:

“Candidate Nomination Challenges Article 5.

Challenges to Candidates

5.1. A candidate rejected by the NEC during the candidate nomination period may appeal the NEC’s decision to the Supreme Court within 48-hours period after the NEC’s determination.

5.2 A challenge to the eligibility of a candidate on the preliminary list of candidate must be in writing and signed by the challenger and presented to the NEC within 48 hours after publication of the provisional list of candidates, with all evidence available to support the challenge.

5.3 The NEC shall investigate and determine the challenges presented to it and if it decides that the candidate is not qualified, shall remove the candidate from the provisional list of candidates.

5.4 A candidate removed from the provisional list may appeal the decision to the Supreme Court within 48 hours after it is issued.

5.5. A challenger may appeal NEC’s decision on rejection of the challenge within 48 hours after NEC determination.”

Article 9, which is entitled ‘Due Process, reads as follow:

“9.1. the hearing process, investigation and determination of challenges and complaints by the NEC shall be organized according to rules of procedures issued by the NEC

9.2. A decision by the NEC or a Magistrate shall be published on the premises of the NEC or the Magistrate’s Office.

9.3. A Magistrate’s decision can be appealed to the NEC within 48 hours after determination by the Magistrate.

9.4. Determination of Hearing Officer shall be appealed to the Board of Commissioners no later than 48 hours after the determination.

9.5. Determination of NEC Board on the complaint can be appealed to the Supreme Court of Liberia no later than 48 hours after the determination is issued.”

The letter and spirit of the above quoted provisions from the Regulations clearly dictate a 48-hour period to complete an appeal from the NEC to the Supreme Court in matters of pre-elections. This Court, being a constitutional Court must zealously apply the Constitution, Statutes, and Regulations promulgated by authority of the law. Hence, we hold that the applicable law in this case is the Regulations on Complaints and Appeals and that pursuant thereto, the respondent/appellant had a 48-hour period to complete his appeal to the Supreme Court.

In ascribing to our holding stated *supra*, this Court takes judicial cognizance of the Candidate Nomination Regulations promulgated by the NEC; that the said regulations constituted the Nomination Committee to vet candidates nominations and that appeals emanating from the said Committee to the Board of Commissioners of the NEC and subsequently to the Supreme Court is three (3) days. We also take judicial notice that of recent, the Supreme Court in the case, *National Elections Commission (NEC) v. Siebo, Jr.* recognized and acknowledged that appeals arising from the Nomination Committee is three (3) days.

The facts in the *Siebo, Jr., case* reveal that Amos Siebo Jr., submitted his application as an independent candidate to the Nomination Committee of the NEC to contest the elections in District # 1, Montserrado County. Upon receipt of the application, the Nomination Committee scrutinized the application and informed Mr. Siebo, Jr., that his application indicated that he did not have a headquarters in the district he intended to contest in. A hearing was duly conducted by the Nomination Committee on the application and thereafter the Committee rejected Mr. Siebo's application and denied him from contesting the elections. On appeal before the Board of Commissioners of the NEC the ruling of the Committee was affirmed. Mr. Siebo's lawyer excepted to the Board's ruling, announced an appeal, complied with the cognizance requirement, but completed his appeal five (5) days after the decision of the Board.

The NEC moved to dismiss Mr. Siebo, Jr.'s appeal on grounds that the Supreme Court lacked jurisdiction over the merits of the case since the appeal was completed outside of the 48-hour period stipulated in Chapter 5, section 5.12(6) of the New Elections Law. Mr. Siebo resisted the motion on grounds that the 48-hour period was not applicable since the case emanated from the Nomination Committee which the Elections Law does not recognize as compared to an election magistrate or hearing officer.

This Court in passing on this issue, rejected the arguments advanced by both parties holding that Chapter 5, section 5.12(6) of the New Elections Law is inapplicable since the said provision deals with voting and that the Nomination Committee is recognized by the regulations promulgated by the NEC and as such the Committee was clothed with the authority to make a determination on Mr. Siebo's application. In view of this, the Supreme Court held that pursuant to the Candidate Nomination Regulations at section 11.4 the time frame to complete an appeal that originated from the Nomination Committee is three (3) days and not 48 hours.

In the present case the facts reveal that the Nomination Committee of the NEC did not initiate the investigation against the respondent/appellant; rather, a complaint was filed against the respondent/appellant before the NEC; that the said complaint was heard and determined by a Hearing Officer, Counsellor P. Teplah Reeves, not the Nomination Committee; and that pursuant to the decision of the hearing officer this appeal was birthed.

As stated earlier, this Court says that the above quoted provision of Article 9 of the Regulations on Complaints and Appeals clearly speaks to the conduct of hearing and appeals emanating from hearing officers and elections magistrates and that the said provision provides a 48-hour period to complete an appeal. Therefore, we hold that given the fact that this appeal emanated from a hearing officer and not the Nomination Committee, this case is distinguishable from the *Siebo, Jr. case* and that the principle of law stated in the *Siebo, Jr. case* is not applicable to the present case; that Article 5, sections 5.1 and 5.5 and Article 9, sections 9.1 through 9.5 of the Regulations on Complaints and Appeals are the laws applicable to the instant case and as such, the respondent/appellant's appeal having been filed beyond the 48-hour period, divests the Supreme Court of the authority to hear this case on its merits.

Our holding, stated *supra*, should not be misconstrued that this Court is insensitive to the plight of the respondent/appellant's contention regarding the overwhelming traffic congestion caused by the Congress for Democratic Change (CDC)'s official campaign launched on August 19, 2017. In fact, we take judicial notice of the said event and acknowledge all the attending undisputed circumstances surrounding the said launching. But what this Court will not accept is the fact that the respondent/appellant's lawyers have decided to use this occasion as an excuse to shield their negligence in that the said lawyers submitted an affidavit stating that Counsellor Onesimus Banwon was seen in his car enroute to the NEC on August 19, 2017; and that Counsellor Banwon was held in a traffic jam as a result of the CDC's campaign. It is disheartening to note that during the hearing of this case, Counsellor Onesimus Banwon presented a completely different version of the assertions made in the affidavit, stating instead that he was never in his car on that day out of fear that his car would have been damaged by the overwhelming crowd participating in the CDC's campaign. This statement of Counsellor Onesimus Banwon shows that the deponent of the affidavit, Mr. Spencer M. Koroma, of the Sherman & Sherman Law Firm, committed perjury by giving false statement under oath and that the respondent/appellant's lawyers connived with Mr. Spencer M. Koroma to mislead this Court. These unethical conducts by the respondent/appellant's lawyers clearly demonstrate that they were indeed derelict in their professional duties.

This Court says that in as much as we are eager to attend to the merits of this case and make a determination thereon, we are precluded from going any further because of want of jurisdiction. This Court acknowledges that the taking of an appeal is a journey to the Supreme Court wherein the appellant is required to complete the process step by step and that when one of the mandatory steps is missing or defective, the journey cannot be completed. The Supreme Court, in numerous Opinions, has opined as follows:

“in as much as the Court has repeatedly expressed its strong preference for deciding cases on its merit and, consequently, is hesitant to dismiss a case by reason of a mere technicality it is very important that an appellant, in pursuing an appeal takes the outmost care to ensure that the statute is strictly

complied with; that the Counsel for the appellant must continuously and meticulously examine the appeal statute and make sure that it is complied with to the letter and to the full intent of the Legislature as the Court is not prepared to sacrifice the appeal statute or turn a blind eye to accommodate the errors of the appellant in perfecting his appeal. To the converse, the position of the Supreme Court has been strict compliance; and any omission in fulfilling the requirements enounced in the appeal statute is deemed fatal and a warranty for the dismissal of the appeal as the Supreme Court has been un-wavering and uncompromising in its position that non-compliance with the mandatory statutory requirements for appeal cannot be deemed as mere technicality and that a case will in fact be dismissed where there are violations of the substantive statutory requirements by the appellant.” *Manakeh v. Toweh*, 32LLR 207 (1984); *Ezzedine v. Saif* 33LLR 21 (1985); *Blamo et al., v. The Management of Catholic Relief Services*, Supreme Court Opinion, March Term 2006; *Hussenni v.*

Brumskine, Supreme Court Opinion, March Term, A.D. 2013; *National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term A.D. 2017

With regards to election cases, this Court has made no differentiation in the application of the principle of law quoted *supra*. In fact the Court has articulated and espoused that: “*it is incumbent on a candidate in an election to ensure that he has in place a qualified legal team so that in the event he believes that an election violation has occurred, he would be in the position to adequately take advantage of the law, especially with the timeframe prescribed by the law for asserting a challenge and timely appealing from any decision related to the challenge since electoral challenges are special proceeding which must be heard expeditiously.*” *Jonathon Boye Charles Sogbie v. NEC*, Supreme Court Opinion, October Term

A.D. 2016; *Kamara v. NEC*, Supreme Court Opinion March Term, A.D. 2017; *National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term A.D. 2017.

In view of the facts articulated herein and the principle of laws applicable thereto we hold that the Supreme Court lacks jurisdiction to hear and make a determination on the merits of this case and, as such, the motion to dismiss the appeal is granted and the appeal is dismissed. Given the fact that the appeal is dismissed, the Supreme Court is precluded from delving into the second issue concerning whether the Board of Commissioners erred in confirming the ruling of the hearing officer which disqualified the respondent/appellant from contesting the October 2017 Elections.

WHEREFORE, and in view of the foregoing, it is the holding of this Court that the motion to dismiss the appeal should be and same is hereby granted, and the appeal is dismissed as a matter of law.

The Clerk of this Court is ordered to send a mandate to the National Elections Commission to resume jurisdiction over this case and enforce this judgment. Costs ruled against the respondent/appellant. And it is so ordered.

Motion to Dismiss Appeal Granted.

Counsellor Joseph P. Gibson of the Wright and Associates Law Firm appeared for the movant/ appellee. Counsellors James G. Innis, Jr., Albert S. Sims, and D. Onesimus Bamwon appeared for the respondent/ appellant.