

**IN RE: PETITION OF BENJAMIN J. COX FOR DECLARATORY
JUDGMENT ON THE CONSTITUTIONALITY OF SECTION 17.1 OF
THE JUDICIARY LAW, REVISED CODE, GOVERNING
QUALIFICATION FOR ADMISSION TO THE LIBERIA NATIONAL
BAR**

Heard: December 14, 1989. Decided: January 9, 1990.

1. A person whose rights are affected by a statute or an instrument may seek a court declaration as to those rights.

2. For a plaintiff to have a standing to sue, he must show that he personally has suffered some actual or threatened injury as a result of the putative illegal conduct of the defendant.

3. In order for a petitioner to invoke the powers of the court in determining whether or not a statute, which limits admission to the bar to only Liberian citizens, violates his right of equal protection guaranteed by the Constitution, he must show that he has standing to make such a challenge.

4. The Dean of the Louis Arthur Grimes School of law or the authorities of the University of Liberia are not clothed with the authority to deny or grant admission of any person to the Bar; this is the sole prerogative of the Supreme Court. So if the name of a graduate of the Louis Arthur Grimes School of Law is not submitted to the Supreme Court for admission to the Bar, that denial has not matured to warrant a standing to sue; it is the denial by the Court which would warrant a standing to pursue any legal action.

5. In order that a petitioner may legally and rightfully challenge the constitutionality Section 17.1 of the Judiciary Law, Revised Code, which governs the admission of a person to the Bar, the petitioner must have applied either to the Chief Justice to have his name submitted for admission to the Bar, if and when it is determined that all of the statutory prerequisites have been met and he must have been refused; alternatively, the petitioner must have petitioned the appropriate court of record for admission to the Bar and must likewise have been refused; and in both or either instance the refusal must have *been* based upon the sole reason that Section 17.1 of the Judiciary Law Revised Code prohibits aliens from being admitted to the Bar and to the practice of law in Liberia.

6. Only the courts have the right to make pronouncements regarding acts of the Legislature with binding legal effect.

7. Even though Article 2 of the Constitution provides that the Supreme Court, pursuant to its power of judicial review, has the power to declare null and void any law which is in violation of the Constitution, Article 66 of the Constitution provides that the Supreme Court is the final arbiter of constructional issues. This means that when a constitutional issue, including the constitutionality of a statute, is raised in a subordinate court, the subordinate court must pass on the factual allegations set out in the pleading before it can refer the matter to the Supreme Court, if indeed a referral is appropriate.

8. When a case is brought before a lower court involving factual allegations, the lower court must first take evidence and satisfy itself as to the truthfulness of the factual allegations set out in the pleadings before it can refer the matter to the Supreme Court, if indeed a referral is appropriate.

9. Whilst the Constitution of Liberia makes this Court the final arbiter of constitutional issues, it does not prohibit courts of records clothed with relevant authority from passing upon constitutional issues raised before them.

10. The Supreme Court is not clothed with authority to take evidence in any matter except for those involving ambassadors, ministers and cases in which a county is involved.

The petitioner, Benjamin L. Cox, is a citizen of the United States of America, married to a Liberian citizen and has children by this Liberian wife. Petitioner is also a graduate of the Louis Arthur Grimes School of Law, University of Liberia, but upon his graduation, his name was excluded by the dean of said Louis Arthur Grimes School of Law from the names of his fellow graduates submitted to the Chief Justice of Liberia for consideration for admission to the Liberian Bar as attorneys-at-law. According to the Dean of the Law School, there was no duty imposed upon him to submit the petitioner's name for admission to the bar and that, in any event, he would not do so given the provision of section 17.1 of the Judiciary Law, Revised Code 17. This position of the Dean of the Law School was supported by authorities of the University of Liberia. Based upon this denial, the petitioner filed a petition for declaratory judgment before the Civil Law Court, Sixth Judicial Circuit, Montserrado County, challenging the constitutionality of section 17.1 of the Judiciary Law, Revised Code, on the ground that the said statute governing admission to the Liberian bar

based on nationality violates the equal protection clause of the Constitution, as it relates to foreigners and specifically to the petitioner. Petitioner therefore submitted that said section 17.1 of the Judiciary Law, Revised Code, was unconstitutional.

Upon the filing of the petition, the Ministry of Justice was informed of the challenge to the constitutionality of Section 17.1 of the Judiciary Law, Revised Code. The Ministry of Justice then filed a motion to intervene and along with it the returns to the petition for declaratory judgment. The motion to intervene was granted; but without a hearing at the Civil Law Court, based on his interpretation of the Constitution that the constitutionality of a statute may be determined by the Supreme Court alone, petitioner requested the trial judge to have the records certified and transmitted to the Supreme Court. The request was granted and the records were transmitted to the Supreme Court of Liberia.

In its opinion, the Supreme Court held that the petitioner made no showing of a standing to enable him to challenge the constitutionality of the statute which limited admission to the Liberian Bar to only Liberians who had graduated from a recognized law school. The Court also held that it was an error on the part of the trial judge to certify and transmit the records of the case to the Supreme Court without passing on the issues raised in the petition. The Supreme Court maintained that even though the constitutionality of a statute is its prerogative, yet, as an appellate court, the issues should have been disposed of in the trial court before being sent to the Supreme Court for appellate review. For these two reasons, the petition was *denied*.

Joseph Findley, H. Varney G. Sherman and M Fahnbulleh Jones appeared for the petitioner. *McDonald J. Krakue*, Solicitor General of Liberia appeared for the Republic of Liberia, *Seward Montgomery Cooper and Charles W. Brumskine, Sr.* appeared as *amici curiae*.

MR. JUSTICE BELLEH delivered the opinion of the Court.

We have on several occasions, since the coming into effect of the Constitution of Liberia on January 6 1986, been called upon to decide the constitutionality of various acts passed by the Legislature of Liberia prior to the 1980 revolution and various decrees promulgated by the People's Redemption Council Government in the years following the revolution. The petitioner in the instant case, as with the petitioners in the other cases, seeks to have this Court declare one of such existing laws of this country unconstitutional for reason that the law, as alleged by the petitioner, is violative of his constitutional rights and certain provisions of the Constitution.

In the present case, the challenge is to section 17.1 of the Judiciary Law, Revised Code, which limits admission to the Bar and thus the practice of law in Liberia, to Liberian citizens, who have graduated from a recognized law school. The petitioner, Benjamin L. Cox challenges the statute on the ground that the nationality criterion laid down by the statute for admission to the Liberian Bar violates the equal protection clause of the Constitution of Liberia, as it relates to foreigners, and specifically as it relates to him.

Section 17.1 of the Judiciary Law, Revised Code 17, reads as follows:

"A person applying for admission to the Bar as an attorney must be a citizen of this Republic, have attained the age of twenty-one and be examined and licensed to practice as prescribed in this Chapter."

In his petition for declaratory judgment, filed before the March A. D. 1989 Term of the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, Republic of Liberia, the petitioner alleged that he had met the following criteria for admission to the Liberian Bar: (a) That he is a graduate of the Louis Arthur Grimes School of Law, University of Liberia; (b) that he had attained the age of twenty-one years; (c) that he was of good moral standing; and (d) that he was prepared to be examined and licensed. The petitioner contended, however, that notwithstanding the fact that he had met these basic requirements, the Dean of the Louis Arthur Grimes School of Law, in submitting the names of graduates to the Chief Justice of the Supreme Court of Liberia for consideration for admission to the Bar, failed and refused to include his name in the said submission. In support of this contention, the petitioner exhibited communications sent by him to the University of Liberia and responses from the University authorities. One of such responses was a letter from the Dean of the Louis Arthur Grimes School of Law informing the petitioner that he, the Dean, would not submit the petitioner's name to the Chief Justice because there was no such obligation imposed upon him to do so, and that in any event, he would not do so, given the provisions of section 17.1 of the Judiciary Law, Revised Code 17. Other University authorities agreed with the position of the Dean and the petitioner's name was therefore never submitted.

It was on the basis of the foregoing denial by the Dean of the Louis Arthur Grimes School of Law and other University authorities that the petitioner filed a petition for a declaratory judgment. The prayer in the petition contained three requests. (a) That Section 17.1 of the Judiciary Law, Revised Code, quoted above, be declared unconstitutional; (b) that Rule 32 of the Code of Moral and Professional Conduct,

which is the oath of a lawyer, be modified to exclude therefrom the phrases "honorable citizens" and "of my country"; and (c) that petitioner be admitted to the practice of law in Liberia.

The basis for the request to declare section 17.1 of the Judiciary Law, Revised Code 17, unconstitutional, as encouched in the petition, is that the statute's exclusion of non-citizens from admission to the Bar and thus the exclusion of such persons from the practice of law in Liberia before Liberian courts deprives petitioner and others similarly situated of the right and the opportunity of pursuing the profession obtained from a chosen course of study. This exclusion, the petitioner asserted, based solely upon the fact that he and others similarly situated are aliens was, as applied, both inconsistent with the Constitution of Liberia and a violation of the equal protection clause of the said Constitution and, hence, unconstitutional.

Upon filing of the petition, the petitioner appeared before the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, at its March Term, A. D. 1989, presided over by assignment by His Honour, James L. Brathwaite, relieving judge, and requested that the Minister of Justice be informed of the filing of the petition. The request was duly noted by the court and the Minister of Justice was accordingly informed of the challenge of the petitioner to the constitutionality of Section 17.1 of the Judiciary Law, Revised Code 17. The Minister of Justice thereupon filed before the aforesaid Civil Law Court a motion to intervene, and simultaneously filed the Ministry's returns.

When the case was again called and the motion to intervene granted, the petitioner, in an application made to the court, requested that the court certified the case to the Supreme Court of Liberia since it involved a constitutional issue, which the trial court was not clothed with authority to pass upon. The request was granted and the case certified to this Honourable Court. This was done notwithstanding the fact that the issues of law raised in the petition and the returns of the Ministry of Justice were not passed upon and the matters of fact raised were not heard or evidence taken to substantiate the truthfulness of the allegations made by the parties, especially the petitioner, or to satisfy the court that indeed the matter was ripe for disposition by this Court.

The records having been thus certified to this Honourable Court, and *amici curiae* having been appointed to serve as arms of the Court in the disposition of the issues raised in and by the petition, the case was assigned and duly heard.

We have listened to the brilliant arguments presented by the respective parties and are impressed by the concerns which have been generated by all sides in ensuring that the laws of this country are upheld both, as to their letter and as to their spirit; and that the rights of citizens and foreigners alike are fully protected. We are fully mindful of the onerous task placed upon our shoulders by the Constitution of this nation and by the expectations of the people, both citizens and residents, and we proceed to make our determination of this matter in full view of those factors and of the existing laws accepted in Liberia and in jurisdictions around the world. We have kept these factors foremost in the consideration of this petition.

If we are to reach and determine the issue of the constitutionality of section 17.1 of the Judiciary Law, Revised Code 17, we must first determine in the positive, as a matter of procedure, the following ancillary issues:

1. Did the petitioner establish, by his petition, that he has standing to challenge the constitutionality of section 17.1 of the Judiciary Law, Revised Code 17?
2. Did the petition present a justiciable matter for determination?
3. Is a petition for a declaratory judgment on the constitutionality of Section 17.1 of the Judiciary Law, Revised Code 17, the proper remedy to seek admission to the Liberian Bar?
4. Could the trial court, without disposing of the issues of law raised by the parties and entertaining a hearing of the factual allegations set forth by the parties in their pleadings, certify the case to this Honourable Court for disposition of the constitutional issue raised by the petition?

Because the first three of the four issues enumerated above are interrelated and basically involve the right of the petitioner to bring the instant proceeding, we shall combine them and accordingly dispose of them together.

In his brief and in arguments presented before this Court, the petitioner, by his counsel, submitted that he had filed his petition for declaratory judgment in accordance with privileges granted under sections 43.1 and 43.2 of the Civil Procedure Law, Revised Code 1.

Section 43.1. POWER OF COURTS TO RENDER DECLARATORY JUDGMENTS.

"Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment. The power granted to the court under this section is discretionary."

Section 43.2. CONSTRUCTION OF WRITING AND STATUTES.

Any person interested under a deed, will, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

All of the parties agree that generally a person whose rights are affected by a statute or an instrument may seek a court declaration as to those rights. The Ministry of Justice and the *amici curiae* appointed by this Court maintained however that whilst the statute grant to a person the right to seek a declaratory judgment relative to affected rights, the exercise of such a right is dependent upon whether such a person or party can show that he has standing to seek a declaration from the court. In the instant case, they argued that the petitioner has not shown that he has standing to seek a court declaration of the unconstitutionality of section 17.1 of the Judiciary Law, Revised Code 17. In order that a person may be vested with the right to bring such a petition as the one before us, it was argued, the petitioner must have shown: (a) that he had actually applied for admission to the Bar and had been denied such admission on the sole ground that he was an alien; but there was no allegation or showing that any such application had been made either to the Chief Justice of the Supreme Court of Liberia or by petition to any of the courts of record of this jurisdiction duly clothed with authority to admit a candidate to the practice of law in Liberia. The mere fact that the petitioner has alleged that he was a graduate of the Louis Arthur Grimes School of Law, that the Dean of that School had refused to submit his name to the Chief Justice of Liberia for consideration for admission as an attorney-at-law, and that the basis for the Dean's denial was that Section 17.1 of the Judiciary Law, Revised Code 17, limited admission to the Bar to only Liberians, the *amici curiae* argued, are insufficient to give the petitioner standing to challenge the constitutionality of Section 17.1 of the Judiciary Law, especially so, they say, because the Dean of the Louis Arthur Grimes School of Law is not the appropriate governing authority vested with the prerogative to grant or deny admission to the Bar.

Standing is a requirement that the plaintiffs have been threatened with injury by governmental action complained of, and focuses on the question of whether the litigant is the proper party to fight the lawsuit, not whether the issue itself is justiciable.... The essence of standing is that no person is entitled to assail the constitutionality of an ordinance or statute except as he himself is adversely affected. BLACK'S LAW DICTIONARY 1260 (5thed.).

Person wishing to contest, on constitutional grounds, the validity of legislation must be able to show, not only that the legislation is invalid, but also that they have sustained or are in immediate danger of sustaining, some direct injury as a result of its enforcement, and not merely that they suffer in some indefinite way in common with people generally. It is also established that one cannot invoke, in order to defeat a law, an apprehension of what might be done under it and which, if done, might not receive judicial approval. Similarly, the power of courts to pass upon the constitutionality of statutes arises only when the interests of litigants require the use of this judicial authority for their protection against actual interference. A hypothetical threat is not enough. It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute complained of and one who attacks a statute on the ground that it deprives him of his constitutional right has the burden of proving that his rights have been invaded by the actual or threatened application of the challenged law. A plaintiff in a court must show a logical nexus between the statute assaulted and the claim sought to be adjudicated, such enquiries being essential to insure that he is a proper and appropriate party to invoke the judicial power.¹⁶ AM. JUR. 2d *Constitutional Law*, § 120.

It has also been said that the Declaratory Judgment Act gives no free pass to parties intent upon obtaining declarations of constitutional questions. An actual case or controversy must be presented. There must be adverse parties with adverse legal interests. Moore's Federal Practice §57.18(2). In the same text, it is provided that the generally accepted pronounced principles of "legal relations" and "interested party" required under the declaratory judgment statute are said to be no more than a facet of the concept of standing to sue; it requires that a plaintiff must assert an adequate interest in himself, which the law recognizes against a defendant having a substantial adverse interest. Moore' s Federal Practice § 57.15. The basic meaning of the foregoing is that the plaintiff must show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant.

Otherwise, the exercise of jurisdiction would be gratuitous and thus inconsistent with the limitations imposed regarding standing. *Ibid.*, § 57.11.

We must therefore examine the petition and determine whether, as a matter of law, the petitioner has alleged sufficient matters which would give standing to petition this Court for a declaration of the unconstitutionality of section 17.1 of the Judiciary Law, Revised Code 17.

As stated earlier in this opinion, the challenged section of the Judiciary Law limits admission to the Bar and the practice of law in Liberia before Liberian courts to only Liberian citizens. The contention of the petitioner is that the statute's exclusion of aliens or non-Liberians from the practice of law in Liberia violates his equal protection right guaranteed by the Constitution of Liberia.. The provision of the Liberian Constitution referred to is Article 11(c). That Article states: .

"All persons are equal before the law and are therefore entitled to the equal protection of the law."

The contention of the Ministry of Justice and the *amici curiae* appointed by the Court is that whilst the Constitution of Liberia does provide that there shall be equal protection, a person claiming a violation of his right must show that there has been an actual violation of his right. In short, he must show standing or the existence of an actual dispute. We are in agreement that in order for a petitioner to invoke the powers of this Court in determining whether a statute which limits admission to the Bar to only Liberian citizens violates his right of equal protection guaranteed by the Constitution he must show that he has standing to make such a challenge. Has the petitioner shown such a standing. We think not.

In his petition, the petitioner alleged that he is a graduate of the Louis Arthur Grimes School of Law, University of Liberia, having graduated during academic year, 1987; that the Dean of the Louis Arthur Grimes School of Law had submitted the names of persons who had graduated with him to the Chief Justice of Liberia for consideration for admission to the Bar, but had refused to submit his name; that the basis for the refusal by the Dean in submitting his name is that no such obligation was imposed upon him, and in any event he would not do so as such was prohibited by Section 17.1 of the Judiciary Law, Revised Code 17. There was no allegation and no showing by the petition that the petitioner had applied to the Chief Justice of Liberia for consideration for admission to the Bar or that he had petitioned any of the courts of record of Liberia clothed with the authority to admit candidates to the

Bar. We have found nothing in our law which gives any effect to pronouncements made by the Dean of the Louis Arthur Grimes School of Law on the effect of any statute laws of this country, nor have we found any authority in our law which obligates the Dean of the Law School to submit the name of a graduate of that school to the Chief Justice for consideration for admission to the Bar. Both the Constitution of Liberia and the statute laws of this jurisdiction vest in the courts the right to make pronouncements, with binding legal effects, regarding acts of the Legislature. The Dean was therefore within his right, using his discretion and having no legal prohibition in the exercise thereof, to refuse to submit the name of the petitioner to the Chief Justice for consideration for admission to the Bar.

In the exercise of that exclusive prerogative, the reasons given by the Dean become irrelevant and can never form the basis upon which a person so refused can proceed to court and pray that an Act passed by the Legislature of Liberia be declared unconstitutional. Certainly, such denial does not provide a petitioner with standing to challenge a statute which limits admission to the Bar to only Liberians.

In order that a petitioner may legally and rightfully challenge a statute as the one challenged in the instant case, he must have applied either to the Chief Justice to have his name submitted for admission to the Bar, if and when it is determined that all of the statutory prerequisites have been met and he had refused, or alternatively, he had petitioned the appropriate court of record for admission to the Bar and had likewise been refused, and in both or either instance the refusal had been based upon the sole reason that Section 17.1 of the Judiciary Law, Revised Code 17 prohibits aliens from being admitted to the Bar and to the practice of law in Liberia. These in our opinion are the relevant authorities to whom the application or petition for admission to the Bar should have been made and who must have refused to order or to grant the application or petition on the ground that only Liberian citizens were eligible for admission to the Bar. In the instant case there is no allegation or showing that any of these steps were taken. Yet, and notwithstanding the lack of any such action, the petitioner has proceeded to petition the court to declare Section 17.1 of the Judiciary Law, Revised Code unconstitutional. We hold that as the petitioner has made no showing of standing, he cannot challenge the constitutionality of the statute.

Should we proceed to make a determination of the constitutionality or unconstitutionality of the statute as prayed for by petitioner, we would be setting the stage for our courts to become battlegrounds for deciding hypothetical matters. This would mean that anyone who dislikes a statute, although in no way affected by it, could come into court and have us make a pronouncement on the statute. In the

instant case, whilst the petitioner has said that the statute violates his constitutional right to practice law in the Republic, nowhere has he alleged that he was determined to practice law within the Republic of Liberia, and nowhere has he alleged or shown that he petitioned any of the relevant authorities for admission to the practice of law and had been refused.

We have examined all of the cases cited by the petitioner and have found that in all instances, application or petition had been made to the relevant authority for admission to the practice of law and that the petitioner had been refused the right to the practice of law solely on the ground that the petitioner was an alien and being so situated, he was prohibited under the law of the particular jurisdiction from practicing law in that area. Those cases are not likened to the instant case wherein the petitioner has not petitioned any relevant authority for admission to the Bar and has been refused. We cannot therefore entertain the petition for declaratory judgment.

Moreover, in the absence of a petition having been submitted by the petitioner for admission to the Bar and denied by the relevant authority, against whom has the petitioner brought the action? The mere fact that the statute is on the books does not give to anyone the legal right to challenge it. He must have sought to exercise a right granted or guaranteed by the Constitution and must have been refused that exercise by the administering authority. He must then have challenged the decision of that administering authority and the basis therefor and therein must have asserted that the statute relied upon by the administering authority was unconstitutional. There has been no such steps taken in the instant case.

We now turn to the question of the referral of the petition to us for adjudication on the ground that the petition raised a constitutional issue. We do not dispute that the Constitution of Liberia, at Article 2, vests in the Supreme Court, and consistent with the powers of judicial review, the power to declare any law inconsistent with the Constitution unconstitutional. We fully acknowledge that the Supreme Court is the final arbiter of constitutional issues. LIB. CONST., Art. 66 (1986). Nevertheless, except as to matters involving ambassadors, ministers and cases in which a county of the Republic is involved, this Court is not clothed with the authority to take evidence in any other matter. Thus, when a case brought before a lower court involves factual allegations, the lower court must take evidence and satisfy itself as to the truthfulness of the factual allegations set out in the pleadings before it can refer the matter to the Supreme Court, if indeed a referral is appropriate.

In the instant case the petitioner had alleged that he was over twenty-one years old, that he had graduated from the Louis Arthur Grimes School of Law, that he was of good moral and professional character; all of which must have been substantiated before he could be admitted to the Bar, even if the citizenship requirement was absent. The trial court was under a legal obligation to ascertain the truthfulness of all the allegations made by the petitioner. Indeed, in all of the cases we have examined, as cited by the petitioner, this task has been performed by the forum before which the petitioner has made the allegations. Yet, in the instant case the trial judge, rather than ascertaining the truthfulness of the allegations made by the petitioner, determined, based on an application made by the petitioner, to certify the case to us for our determination and, by that, expecting that we would take evidence to ascertain whether the allegations made by the petitioner are true. Such is not a task delegated to us by the Constitution. Indeed, this is expressly prohibited by the Constitution and we are not prepared to embark upon such course as would put us squarely in conflict with the Constitution.

Moreover, and because we can not take evidence, should we proceed to determine the constitutional issue presented by the petitioner and remand the case for the trial court to then take evidence and that court determined that the petitioner had not met the qualification criteria for admission to the Bar what becomes of the opinion handed down by us? We would have effectively decided on hypothetical matter; an act, which we can not legally do. The trial court must first have determined that the petitioner has met all of the other requirements of the statute before certifying the constitutional question to the Supreme Court. It was error for the trial court not to have decided upon that all important aspect of the case before certifying it to this Court if certification was an appropriate step to take.

In that connection, we must state here that whilst the Constitution of Liberia makes this Honourable Court the final arbiter of constitutional issues, it does not prohibit courts of records clothed with relevant authority from passing upon constitutional issues raised before them. Indeed, the use of the word "final" clearly infers that the matter must first have been heard by a lower court. Otherwise, the word "only" would have been used. For the latter word would mean that this Honourable Court is the exclusive forum to determine constitutional issues. The use of the former word means that this Honorable Court is the ultimate determinant of constitutional issues and that once those issues are so decided by this Court, the matter is laid to rest. It was therefore the prerogative of the trial court judge to pass upon the constitutional issue raised, if it was established that the petitioner had standing to bring the action or to challenge the statute. However, as we have determined that the petitioner has no

standing, a remand to the trial court for disposition of the constitutional issue is unwarranted. As the petitioner lacks standing, we hold that the petition be and is hereby dismissed. And it is hereby so ordered.

Petition dismissed.