

FREDERICK J. JACKSON & COMPANY, Appellants, vs. **JOSEPH D. SUMMERVILLE**, Appellee.

LRSC 3; 1 LLR 339

[January Term, A. D. 1899.]

Appeal from the Court of Quarter Sessions and Common Pleas, Grand Bassa County.

Notice of appeal—Time allowed for entering appeals—Non-payment of costs.

Where the records were not transmitted to the court of appeal until nine months after the appeal was taken it was held to be contrary to the Statute of 1894, which provides that the record must be transmitted to the clerk of the court of appeal within ninety days from the taking of the appeal. The appeal was dismissed for want of jurisdiction on this account.

This case is before this court on an appeal from the Court of Quarter Sessions and Common Pleas of Grand Bassa County, March term, A. D. 1897. Upon the case being called up for hearing, the counsellors for the appellee tendered this court a motion to dismiss the said case for the following reasons, to wit: First, "Because the appellee has not been summoned or notified in the court below to follow up said appeal." Second, "Because no plaintiff can appeal to this honorable court before complying with certain requisites, as will appear by the Amended Statute of 1894." Third, "Because this case was not filed in this honorable court within the time fixed by the statutes of this Republic regulating appeals." Fourth, "Because the appellants have neglected to pay the costs in the court below."

Upon a careful consideration of the first and second points raised in the motion, and on examination of the several statutes of Liberia relating to appeals, we are firmly of the opinion that the grounds relied upon in the first and second counts of the motion are not supported by the records, and therefore, without making any further observation on these points, we shall proceed to the consideration of the third count of the motion, which is in fact the salient point raised therein. This point raises a question as to the jurisdiction of this court over the cause. By inspection of the record in the case we find that the appeal was taken in April, 1897. The certificate of the clerk of this court to the record shows that the cause under consideration was not entered in this court until the 3rd of January, 1898, about nine months from the taking of the appeal. The act of the Legislature governing appeals, approved January, 1894, declares that "an appeal must be taken and the record in

the cause transmitted to the clerk of the court of appeal within ninety days after the appeal has been taken."

This case not having been entered in this court within the time prescribed by law, we are of the opinion that this court cannot take jurisdiction of the cause. Therefore, for want of jurisdiction growing out of the failure on the part of the appellants to enter their case in this court within the time prescribed by the statutes of Liberia, this court dismisses the case, with costs; and the clerk of this court is hereby authorized to issue a mandate to the judge of the court below, informing him of this ruling.

Key Description: Appeal and Error (Dismissal; Necessity and duty of filing in appellate court; time for transmission and filing; Costs, payment as prerequisite to; Dismissal of appeal for failure to transmit complete record within statutory time)