

**ULRC**, by and thru its Manager, and **THE CHAIRMAN OF THE BOARD OF GENERAL APPEALS**, Ministry of Labour, Informants, *v.* **HIS HONOUR JAMES KENNEDY BELLEH**, Assigned Circuit Judge Presiding over the Civil Law Court, Sixth Judicial Circuit, Montserrado County, March Term, 1984, and **EMMANUEL F. McCAULEY**, Respondents.

#### INFORMATION PROCEEDINGS

Heard October 18, 1984. Decided November 23, 1984.

1. It is only after the Board of General Appeals has made a ruling as to payment of an entitlement by a party that an enforceable decision is made, from which an appeal may be taken for judicial review.
2. It is not contrary to a Supreme Court mandate for a trial judge to further examine a case and render judgment where the Mandate directed the remand of the case.
3. The proper remedy from a hearing and final judgment of a court of record in a labor case or any other case is an appeal to the Supreme Court, and not a bill of information.
4. The Supreme Court, being a Court of final resort, exercises jurisdiction only over a case properly brought before it on appeal, taken in keeping with the statute.
5. Every person against whom a final judgment is rendered has the right to appeal from the judgment of the court, except in the case of judgment by the Supreme Court. Civil Procedure Law, Rev. Code 1 :51.2
6. The acts necessary for the completion of an appeal are the announcement of the taking of the appeal, the filing of a bill of exceptions, the filling of an approved appeal bond, and the service and filing of a notice of completion of appeal. The failure by an appellant to comply with any of these requirements, within the time allowed by statute, deprives the Supreme Court of jurisdiction to hear the case on the merits, and renders the appeal dismissible. Civil Procedure Law, Rev. Code 1 :51.4.

These information proceedings were commenced by the informants growing out of their dissatisfaction with the ruling given by the co-respondent judge in carrying out a mandate from the Supreme Court. In an earlier appeal to the Supreme Court from a ruling of the Board of General Appeals of the Ministry of Labour and the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, the appellant had complained that the ruling of the Board was unclear since it had stated only that the employer was liable to the employee for "time served" without stating what the "time served" was or what the liability was in terms of dollars. The Supreme Court had remanded the case to the circuit court with instructions that the trial court orders the Board to be definite and clear, and further, that the Board quantifies the phrase "time served" into dollars and cents, after hearing evidence on the point.

In response to the mandate, the Board decided that the employee was entitled to only one month's pay which it determined to be \$500.00. On appeal to the Civil Law Court for the Sixth Judicial Circuit, Montserrado County, the court reversed the Board's decision, holding instead that the co-respondent employee was entitled to twenty-four month's salary at the rate of \$500.00 per month. The total amount calculated on this new schedule by the trial court was \$13,000.00.

In the information before the Supreme Court, the informants contended that the trial judge should not have entered any judgment on the subsequent decision of the Board of General Appeals, but should only have enforced the Board's decision; that the Supreme Court had ordered the Board, not the circuit court, to make its decision definite and certain; and that the judge's action in reversing the Board was in contravention of the Supreme Court mandate.

The respondents, in countering the information, asserted that the decision made previously by of the Supreme Court was not a final decision, in that it still required further action by the inferior tribunal; and that in any event, the decision of the trial judge, being final, the proper remedy for the informant to have pursued was an appeal and not a bill of information.

The Supreme Court agreed with the contention of the respondents, noting that the decision of the Board, in executing the Court's mandate, was final and that an appeal was the

appropriate remedy to pursue. The co-respondent employee was therefore correct, it said, in petitioning the circuit court for a review of the Board's decision to award him only one month's salary. The Court noted also that it was not contrary to its mandate for an appeal to be taken from the Board's decision and for the trial judge to hear and rule on the petition filed in connection therewith.

Commenting on the choice of remedy pursued by the informant, the Court stated that proper remedy available to a party to have the Supreme Court review the judgment of the trial judge was an appeal to the Supreme Court rather than a bill of information. The Court observed that the informants had failed to follow the procedure prescribed for a party taking an appeal and that, under the circumstances, the Court had not acquired jurisdiction over the case. The information was therefore *denied*.

*McDonald J. Krakue* appeared for informants. *J. Emmanuel R. Berry* appeared for respondents.

MR. JUSTICE SMITH delivered the opinion of the Court.

This information proceeding grows out of a case of illegal dismissal which originated in the Ministry of Labour and later traveled on appeal to the Civil Law Court for the Sixth Judicial Circuit, Montserrado County. It was heard on appeal for the first time by this Court during its March 1981 Term. Following a hearing, this Court reversed the judgment of the lower court and remanded the case with instructions that it be sent back to the Board of General Appeals to make its decision clear and certain, in terms of dollars and cents. The Court directed that for that purpose, additional evidence be taken, if necessary, in order to arrive at an unerring conclusion. A relevant portion of the judgment of this Court, as rendered on the 31st day of July, 1981, reads as follows:

"That the ruling in this case be and the same is hereby reversed and the case remanded to the court below with instructions that the trial court will send a mandate to the Board of General Appeals to make its ruling of August 28, 1980, certain, definite and clear as to what it meant when it decided that the appellant company was liable to pay appellee for 'TIME SERVED' in terms of dollars and cents, after hearing evidence on this point, since the Board of General Appeals, according to chapter 1, section 3 of the Labour Law of Liberia, is authorized by law to hear additional evidence to enable it to make a decision or for other

substantial reason, if in the Board's opinion the aggrieved party was not given sufficient opportunity at the hearing to introduce relevant and material evidence. Costs of these proceedings are to abide final adjudication of this matter.

"The Clerk of this Court is hereby ordered to send a mandate to the assigned circuit judge presently presiding over the People's Civil Law Court, Sixth Judicial Circuit, Montserrado County, to resume jurisdiction over the case in obedience to our instructions contained herein. AND IT IS HEREBY SO ORDERED"

The Board of General Appeals, in executing this mandate, stated in part, as follows:

"After a review of this matter by the Board, it ruled reversing the decision of the hearing officer and ordered respondent to pay petitioner only for time served immediately prior to petitioner's dismissal if said payment has not been made. To this ruling, the petitioner excepted and announced an appeal to the Judicial Branch of the Circuit Court where the ruling of the Board of General Appeals was reversed and that of the hearing officer upheld. The respondent appealed from this judgment and announced an appeal to the People's Supreme Tribunal. After the People's Supreme Tribunal heard arguments from both sides in the case, said Tribunal remanded the case to the court below with instructions that the trial court send a mandate to the Board of General Appeals to make its ruling of August 28, 1980, certain, definite and clear as to what it meant when it decided that the appellant company (respondent) was liable to pay appellee/petitioner for 'TIME SERVED' in terms of dollars and cents . . .

What is before us as mandated by the People's Supreme Tribunal is to determine what the Board meant by 'TIME SERVED' in terms of dollars and cents. Since the Board observed that the petitioner was dismissed for a serious offense against his obligations, which was tantamount to summary dismissal, he is only entitled to one month's pay since he is a salary employee. If petitioner was earning \$500.00 per month, he should be paid \$500.00. AND IT IS HEREBY SO ORDERED".

To this decision of the Board, co-respondent McCauley excepted and petitioned the Civil Law Court for the second time to review the decision of the Board. On May 28, 1984, during the March 1984 Term of the Civil Law Court, presided over by the co-respondent

judge, His Honour James Kennedy Belleh, the petition was called for hearing. Counsellor McDonald J. Krakue was present and he announced representation for the respondent company. Counsellor J. Emmanuel R. Berry, of counsel for petitioner in the court below, was absent. Consequently, the court appointed Counsellor M. Fahnbulleh Jones to take the court's final judgment for the petitioner. We find no showing in the entire minutes of court in this case of any contention raised by the co-informant company on any aspect of the case. After reviewing the records of the case from the Board of General Appeals, the court below entered its final judgment, as follows:

“According to the record, the petitioner had served the respondent for a period of ten years prior to the termination of his services by the respondent. The Board having ruled that petitioner should be paid for time served, the Supreme Court subsequently mandated the Board to clarify and make certain as to what it meant by TIME SERVED. The Board then elected to rule that the petitioner be paid only one month which, in the opinion of the court, is contrary to the provision of section 1508 of the Labour Practices Law. In this respect, the court is of the opinion that the Board erred when it only awarded the amount of \$500.00 in favor of the petitioner. Wherefore, and in view of the foregoing, the petition of the petitioner is hereby granted. The respondent ULRC management is hereby adjudged liable for wrongful dismissal of petitioner. The decision of the Board of General Appeals awarding petitioner one month's salary, not being supported by law, the said decision is hereby reversed. The respondent is hereby ordered to compensate the petitioner for a period of twenty-four months at the rate of \$500.00 per month. The amount of \$500.00 being petitioner's salary received six months immediately preceding the dismissal, totaling \$13,000.00. Costs in these proceedings to be assessed against the respondent. AND IT IS HEREBY SO ORDERED.

Given under our hand in open court this 28th day of May, 1984.

/s/ James Kennedy Belleh

ASSIGNED CIRCUIT JUDGE PRESIDING."

To this judgment, counsel for co-informant ULRC made the following record:

"To which ruling of Your Honour counsel for respondent excepts and gives notice that they will proceed by in-formation, and submits".

It is based upon this exception and the notice given by counsel for co-informant ULRC that informants filed a bill of information before us. In the information, the informant contended that the respondent judge should not have entered any judgment on the subsequent decision of the Board except to enforce the Board's decision awarding only one month's salary; that the mandate of the Supreme Court ordered the Board to make its decision definite and certain in terms of dollars and cents; and that for the co-respondent judge to have proceeded otherwise was in contravention of the mandate of the Supreme Court for which information would lie.

Counsel for the respondents, in countering this argument of the informants, has contended that the judgment of the Supreme Court did not put finality to the case because there was no amount certain awarded by the trial court and hence the case was remanded; that after reviewing the second decision of the Board making its previous decision definite and certain as mandated, to which co-informant ULRC excepted and petitioned the court below for a judicial review, the trial court was duty bound to render final judgment; and that equally so, it was incumbent upon any party that was dissatisfied with said judgment to have exercised his right of appeal to the Supreme Court. Counsel for the respondents argued further that the informants having neglected to seek the proper remedy available to them at the rendition of final judgment in the court below, and having instead elected to proceed by information, the said information should be dismissed and the court below mandated to resume jurisdiction and enforce its judgment from which no appeal was taken. These are the contentions which are relevant and decisive of the case to which this Court has decided to address itself.

In our opinion, there was never a definite, enforceable and appealable final judgment rendered in this case from the hearing officer level up to the Supreme Court. The Supreme Court ordered clarification of what the Board of General Appeals meant by "TIME SERVED" and to make the decision definite and certain in terms of dollars and cents; that costs were to abide final determination of the case. This Court further directed that in supplying the omission, the Board may take additional evidence, if there was a need to do so. (see Judgment of the Supreme Court of Liberia, July 31, 1981, quoted *supra*). It was only after the Board had ruled that co-respondent McCauley was entitled to only \$500.00 as one month's salary that an enforce-able decision was made, and therefore any of the parties that was dissatisfied had the right of appeal for a judicial review. An appeal having been announced from the determination of the Board by co-respondent McCauley, and a petition

for a judicial review duly filed, it was not contrary to the Supreme Court's mandate remanding the case for further examination, for the co-respondent judge to hear the petition and render judgment thereon. It is therefore our candid opinion that there is no ground for a bill of information in this case. The proper remedy should have been an appeal to the Supreme Court to review the final determination of the court below reversing the Board's decision and upholding the ruling of the hearing officer awarding twenty-four (24) months' salary at \$500.00 per month or \$13,000.00.

This Court is an appellate Court of final resort and only exercises jurisdiction over a case properly before it on appeal, taken in keeping with our appeal statute.

Every person against whom any final judgment is rendered shall have the right to appeal from the judgment of the court except from that of the Supreme Court. Civil Procedure Law, Rev. Code 1 :51.2. The following acts shall be necessary for the completion of an appeal: 1) Announcement of the taking of the appeal; 2) filing of the bill of exceptions; 3) filing of an appeal bond; and 4) service and filing of notice of completion of the appeal. Failure to comply with any of these requirements within the time allowed by statute deprives the Supreme Court of jurisdiction to hear the case on the merits. Civil Procedure Law, Rev. Code 1 :51.4.

This information proceeding not being the proper remedy for the review of the judgment of the court below, to which no appeal was announced and perfected, it is our considered opinion that said information should be, and the same is hereby, denied with costs against the informants. And it is hereby so ordered.

*Information denied.*