

Case No. I. **B. J. K. ANDERSON, III**, Executor of the Estate of the Late B. J. K. ANDERSON, II, Appellant, v. **ALFRED ANDERSON**, a Legatee of the Late B. J. K. ANDERSON, II, Appellee.

Case No. II. **J. F. B. COLEMAN**, Appellant, v. **EDWIN BARCLAY**, Appellee.

MOTIONS TO DISMISS APPEALS.

Argued November 16, 18, 1948. Decided January 6, 1949.

1. The failure to file an appeal bond duly approved by the trial judge within sixty days after the rendition of final judgment is ground for the dismissal of the appeal.
2. The court will not entertain a case legally deficient in its records, and the omission of a copy of the appeal bond in the records is fatal.

On motions to dismiss appeals for want of jurisdiction, *motions granted*.

No appearance for appellant in Case No. 1. *Samuel. C. M. Watkins* for appellee in Case No. 1. *A. B. Ricks* for appellant in Case No. 2. *Momolu S. Cooper* for appellee in Case No. 2.

MR. JUSTICE RUSSELL delivered the opinion of the Court.

Because the points upon which the determination of the above-entitled causes hinge are really the same, we have decided to blend our consideration of them in one opinion.

The first cause, *Anderson v. Anderson*, involving a petition to recover a legacy, emanates from the Monthly and Probate Court for Montserrado County. The latter cause, *Coleman v. Barclay*, involving an action of debt, is brought on appeal from the Circuit Court for the Sixth Judicial Circuit, Montserrado County. In each case the appellant, dissatisfied with the several rulings and final judgment of the trial court, announced exceptions and prayed an appeal to this Court for a review of the proceedings in the court below.

However, before either of these causes was called for hearing, motions to dismiss were filed by each appellee, as follows:

In the case *Anderson v. Anderson*:

"Because appellee says that there is no approved appeal bond filed by appellant to give this Honourable Court jurisdiction, in keeping with law, therefore because of this palpable neglect and failure appellee submits, renders said appeal fatal; and this appellee is ready to prove."

In the case *Coleman v. Barclay*:

"Because appellee says appellant failed and neglected to file an appeal bond, which is one of the jurisdictional steps to be taken by a party wishing to appeal to this Court of dernier resort."

Upon inspection of the respective records, we have found the allegations in appellees' motions to be true; that is to say, no approved appeal bond was filed in the former case, and no appeal bond at all was filed in the latter case.

The principle involved in these two cases has been so repeatedly enunciated from this Bench that any pronouncement that we might make can only be a repetition of what has already been handed down by this Court in causes already heard and determined. *Morris v. Republic*, 4 L.L.R. 125, 1 New Ann. Ser. 203 (1934).

In the case *Delaney v. Republic*, 4 L.L.R. 251, 2 New Ann. Ser. 86 (1935), involving forgery, His Honor Mr. Justice Dossen, speaking for the Court, said *inter alia*:

"The Court will not entertain a case legally deficient in its records ; and the omission of a copy of the appeal bond in the records is fatal to an appeal. . . ." *Id.* at 254.

It is quite clear therefore that the errors committed by appellants in the above-entitled causes are fatal to their appeals and consequently the appeals must be dismissed.

Before concluding, however, we should like to again sound a warning note about the careless, indifferent, and reckless manner in which some advocates are wont to attend to the legal interests of their clients. We can comprehend no sound reason why a lawyer should fail to file an approved appeal bond, which is one of the cardinal steps necessary to be taken in the consummation of an appeal, and the lawyers who were responsible for bringing the appeals hither could not make any satisfactory reply when queried on this point by this Court. Such matters, in our opinion, are fit objects of inquiry for the bar committee, whose duty it is to assist in maintaining the highest

standards for the bar.

In view of the foregoing, we have no alternative but to dismiss the appeals and remand the cases to the respective trial courts with instructions that they resume jurisdiction and execute their judgments; costs ruled against appellants; and it is so ordered.

*Motions granted.*