

BIBLE FAITH CHRISTIAN CHURCH, represented by JACOB PAYE and PETER GBEH, Informant, *v.* HER HONOUR EMMA **SHANNON-WALSER**, Assigned Circuit Judge, Sixth Judicial Circuit, Civil Law Court, sitting in its September Term, A. D. 1978,
Respondent.

JUDGMENT WITHOUT OPINION

Decided: June 14, 1979.

When this case was called, Counsellor J. C. N. Howard appeared for the informant and Counsellor Moses Yangbe appeared for the respondent. The facts as shown by the record certified to us are as follows:

1. On the last day of the September 1978 jury term of the Civil Law Court, Her Honour Judge Emma Shannon-Walser empaneled a jury in the case out of which this submission grown, which jury returned a verdict in favour of the defendant, now informant, on the 30th of November, 1978.
2. On the 4th of December, 1978, the Defendant filed motion for new trial, which was heard and denied by the judge on the 11th of December, 1978. On the said 11th of December, the judge adjourned the September Term *sine die* without rendering judgment in the case, although there was a verdict of the jury for one side and she had denied a motion for new trial. The minutes of court for the 11th of December, the adjournment day, do not show that any attempt was made to determine the case.
3. On the 30th of December, 1978, the day of which this submission was filed, the trial judge had not rendered any judgment, nor had any been filed in the clerk's office. Instead the judge notified the parties that because the judgment had to be re-typed, she would furnish written copies to them later, and that the time for the bill of exceptions and other jurisdictional steps necessary for perfecting an appeal would start to run *nunc pro tunc* from the date for the receipt of the said judgment, even though she was out or term, and term-time for another judge had already commenced. The informant therefore prayed that this Court would order judgment in the case rendered so as to afford the losing party opportunity to announce appeal in court, and thereby begin the appeal process according to law.

The circumstances in this case show that we cannot grant the prayer of the submission, because there is no law which would support our doing so. On the other hand, interests of the parties on both sides have suffered as a result of the judge's neglect and failure to determine the case by judgment. Neither side has won in this useless exercise; neither side can appeal because there is no judgment; neither side might enjoy right of any of the

remedial write known to our practice, because the circumstances do not allow that any of them could be relevant. Yet it is the responsibility of this Court to give relief in the case, and afford both sides fair treatment.

After studying the submission, and the resistance, and after checking the record of the case certified from the trial court, it is adjudged that the Clerk of this Court be ordered to send a mandate down to the court below commanding the judge residing therein to resume jurisdiction of the case out of which this submission grows, and try it anew beginning with the impaneling of a jury. That the said judge now presiding in the June Term 1979 of the said civil law court would hear and determine this case during his present sitting, allowing any party dissatisfied to take appeal. Costs are disallowed. And it is so ordered.

NOTE: Mr. Justice Henries being absent when this case was heard did not take part, hence has not signed this judgment.