

E. Wontee Blamo, Olisco Karyea and Alexander Freeman, Chairman and spokesman, former employees of the Catholic Relief Services (CRS) of the City of Monrovia, Liberia APPELLANTS VERSUS The **Management of the Catholic Relief Services (CRS)** by and thru Madam Debra Lynn Edwards, Sunny Skine, County Representative, or her substitute also of Monrovia, Liberia APPELLEE

APPEAL

Heard: October 25, 2006 Decided: December 23, 2006

MRS. JUSTICE JOHNSON DELIVERED THE OPINION OF THE COURT

The Appellants herein were former employees of the Catholic Relief Services (CRS), a not-for-profit organization operating in Liberia who filed a Wrongful Dismissal Complaint against CRS before the Ministry of Labor. After a hearing in which all parties participated an award was entered in favor of the Complainants to the total tone of US\$186,859.35. The ruling of the Hearing Officer was reversed upon review by the Judge of the National Labor Court. The Complainants now Appellants were granted an appeal from the National Labor Court to the Honorable Supreme Court of Liberia. However, that appeal was withdrawn by Appellants.

The appeal before us was taken from an Action of Debt subsequently instituted by the Complainants in the Labor Complaint in the Debt Court of Montserrado County. The presiding Judge dismissed the action on jurisdictional ground. The Plaintiffs/Appellants announced an appeal which was granted on October 25, 2003. Appellants thereafter filed their Bill of Exceptions which was approved by the Judge. But when they filed their appeal bond dated December 26, 2003, Counsels for Appellee filed a Motion before the Trial Court to dismiss the appeal for Appellants' failure to meet the statutory prerequisites for filing an appeal bond. They alleged that the bond was insufficient and that it was filed after the 60 days deadline provided by statute.

The statute controlling the appeal process mandates the following steps to be taken failure to conform to which renders the appeal dismissible:

1. Filing of the Bill of Exceptions within 10 days from the date of the announcement and granting of the appeal.
2. Filing an approved Appeal Bond within 60 days after the announcement of appeal.

3. Filing Notice of Completion of the appeal and serving same on the Appellee on or before 60 days after said announcement of appeal.

Now, the question is: did the Appellant follow the required steps? The statute controlling the appeal process is so clear and plain that there is no room for construction or judicial discretion. This is so because the right to an appeal being a fundamental right, the legislature did not want to leave the process to the discretion or caprice of the Court, any Court. There should therefore be no reason why the Court should labor at deciding whether or not to dismiss an appeal on those grounds.

Having said that, we must now take recourse to the records to determine the following:

1. The date on which the Action for Debt was dismissed. The record reveals that the debt action was dismissed on October 25, 2002. The appeal was announced and granted on the same date and day. The records show further that Appellant filed his appeal bond on December 26, 2002. Appellee says the Appellant was one day late. The statute controlling says 60 and not 61 days. When convinced by computation of dates that from October 25-31 is 6 days, from November 1-30 is 30 days, from December 1-26 is 26 days total; number of days, 62 minus one day for the observance of Christmas Day (December 25) came up to 61 days, One day too many.

The Appellant/Respondent relying on his own mathematical calculation stated in count 3 of the Resistance to the Motion to dismiss the appeal that "the Statute provides that when the last day of a period computed is a Sunday or a legal holiday, the time runs to the end of the next day which is neither a Sunday or a holiday. He stated further in said Count 3 of the Resistance that the Sixtieth (60th) day was the 25th day of December, 2002, a well known world wide holiday, Christmas Day; hence, he continued, that filing of the papers on the 26th day of December was within statutory time." Following the above statement, the Respondent thinking his mathematical acumen was immaculate, requested this Court to take judicial notice of the records with special reference to October 25, 2002, the date on which the Appellant's appeal was taken and granted. Having done so, we have to disagree and uphold Appellant/Movant's calculation instead. The appeal bond was filed a day later than the statutory deadline; said defect therefore rendered the appeal a fit subject for dismissal.

Other issues that were raised in the motion and the resistance thereto, disposing of which would not alter the outcome of this appeal, but which we have decided to pass on are 1. That the Trial Court should have heard and determined Movant's Motion to Dismiss the appeal in the Trial Court because it was the Trial Court that had jurisdiction, not the Supreme Court. The law is clear as to when and how the appeal process should be conducted in order that a case can be properly before the Supreme Court for Appellate review. The process is a succession of events each of which event has its individual role to play and in playing it contribute to the successful accomplishment of a common goal which goal is to complete the appeal process in straight conformity to the law controlling Taking an appeal is a journey to the Supreme Court, step by step and when any one of those steps is missing or is defective, the journey cannot be completed. When the loser in the Court below makes an announcement of taken an appeal and said appeal is granted, it is expected that the Appellant will file (a) Bill of Exceptions. When the Judge approves the Bill of Exception that is the first step in the journey to the Supreme Court. That first step removes trial jurisdiction from the Trial Court. The Trial Court's only obligation becomes that of playing the role required by law to enable Appellant to proceed with his journey. The Trial Court becomes unauthorized by law to conduct any more hearing into the case he had already adjudicated. The only exception herein is that in the event that the Trial Judge rescinds or modifies his own judgment in conformity with law and the practice, the Bill of Exceptions becomes void, and properly vacated by the Trial Judge Butler-Abdullah Vs. Pearson et al 36 LLR (1989). The Appellee can only return to the Trial Court with a Motion to dismiss the appeal if and only if the Appellant has failed to take that all important first step-filing which is the Bill of Exception within 10 days after the announcement of appeal. Should the Appellant file the Bill of Exceptions, or appeal bond, but not within the required time, the appeal could be dismissed, but only upon Motion filed before the Supreme Court and not the Trial Court as the Appellee had contended in Count (1) of his Resistance. The Supreme Court's jurisdiction began in this case when the Appellant filed his Bill of Exceptions. This is the practice in this jurisdiction.

The next issue we deem worthy of our comments is found in count 4 of the Resistance the essence of which count is that the Trial Judge had ruled "that the Clerk should issue the Notice of Completion of Appeal Nunc Pro Tunc with emphasis so that the Plaintiff/Appellant will have the case reviewed by the Honourable Supreme Court of Liberia and it is hereby so ordered."

The above count is in defense of Appellant's failure to file and serve notice of completion of appeal within statutory time. Counsel for Appellant would have us take

judicial notice of the Judge's ruling dated February 27, 2004 and that by said ruling the Judge intended that the notice of completion of appeal was to be issued on December 26, 2002.

It is necessary that we clarify Counsel's mind and perhaps the minds of others too, that just because the Trial Judge gave instruction to the Clerk to issue the notice of completion Nunc Pro Tunc so that the Plaintiff/Appellant will have the case heard by the Supreme Court of Liberia does not of itself serve as a cure for all other defects or impediments that may disqualify or defeat counsel's right to have his appeal heard. It is not the Trial Judge who commands or dictates the hearing or review of an appeal. It is the completion of the process, abiding by the rules, and meeting the requirements that obligate the Supreme Court to hear an appeal.

As to the other contention in Count 5 of the Resistance, it has already been settled in this Opinion that December 26, 2002, was the wrong date, same being 61 days after the granting of appeal. So to argue that the Judge meant that the Nunc Pro Tunc issuance of notice of completion of appeal must be dated December 26, 2006, does not in any way cure the defect in Appellant's appeal process, that date being one day too many for the filing of the appeal bond as well as the notice of completion of appeal.

We shall proceed no further into this incurable matter. The Appellants, by their negligence or unconcern, or miscomputation of the time failed to have their clients' case heard and determined by this Court of last resort, the Supreme Court. All other issues that are left not disposed of are not necessary for a final determination of this case. Those issues cannot change or heal the damage that was done by the failure of the Appellants to file on or before December 24, 2004, the 60th day. There was also no showing that December 24, 2002, was a Sunday or a holiday. The Supreme Court will frown on lawyers who through their carelessness, negligence, or unprofessionalism deprive their clients of their fundamental right to have their case heard and determined by this Court of last resort. But not only that, the Court will also frown on lawyers who by their unprofessionalism, prevent the Supreme Court from performing its appellate duty as has been done in this case.

It is our considered Opinion, therefore, that because of the failure of Appellant to file the appeal bond within 60 days as provided in 1LCL Revised Sec. 51.6, 51.7, which failure rendered the appeal process faulty and incomplete, the Supreme Court is left with no other alternative but to dismiss the appeal. The Motion to Dismiss the appeal is therefore hereby granted and the appeal is accordingly dismissed. The Clerk is

hereby ordered to strike the appeal growing out of the action of debt from the docket of this Court. Costs against the Appellants. AND IT IS HEREBY SO ORDERED.

Motion granted, Appeal Dismissed.