

D. C. CARANDA, Appellant, v. **W. D. RICHARDS**, *et al.*, Appellees.
BOYMAN KIMBER, Appellant, v. **LEWIS A. LLOYD**, Appellee.
ELIAS G. MIRZA, Appellant, v. **REPUBLIC OF LIBERIA**, Appellee.
C. G. WALTERS, Appellant, v. **REPUBLIC OF LIBERIA**, Appellee.

MOTIONS TO DISMISS APPEALS.

Argued October 15, 16, 30, and 31, 1954. Decided December 20, 1957.

Where appellants have failed to perfect appeals, this Court will grant motions to dismiss.

MR. JUSTICE PIERRE delivered the opinion of the Court.

In each of the above-entitled cases, a motion has been filed to dismiss the appellant's appeal for want of one or more of the necessary and mandatory appeal prerequisites. In each of those cases, as in several others heard during this term and dismissed for the same reasons which necessitate the dismissal of those, counsel for the appellants seem to have exercised little or no interest in their cases after announcing appeals from the judgments rendered against them in the courts below. It is to be regretted that legal representation of causes pending before our courts appear to be receiving such poor professional attention and technical care. If our profession must continue to live up to that high standard which it attained in the past, and if our courts must continue to deservedly demand universal respect for efficiency and fairness, then it has become alarmingly necessary that some penalties be imposed and enforced, to discourage and prevent recurrences of such obvious professional indifference and neglect. In no one of the above-entitled causes has it been possible for us to open the records certified to courts below. In every case this has been due to the fact that appellant's counsel neglected to do his duty in properly superintending his client's case.

As it will be observed, two of these cases are criminal ; another is a civil action for damages ; and the fourth, an objection to the probation of a warranty deed, originated in the Probate Court. Because the grounds for the motions differ, and the circumstances surrounding are peculiar to each, we will deal with each motion separately.

In *Caranda v. Richards*, the records show a situation which, although it cannot excuse the appellant from responsibility for superintending and perfecting his appeal within

time, yet the very nature of the recorded circumstances would seem to require that this Court should sound a warning against a repetition of such a practice on the part of the Probate Commissioner.

The records reveal that exceptions were taken to, and appeal announced from a ruling entered against the appellant on April 3, 1956. The appeal was granted, and the bill of exceptions and appeal bond were approved within proper time; but the notice of appeal which should have given this Court the proper legal jurisdiction over the appealed cause, was, according to appellant's argument before this bar, ordered not to be issued and served. As late as September 26, 1956, more than five months after the appeal had been granted, appellant addressed a letter which appears in the records, to the Commissioner of Probate, reminding him that his notice of appeal had still not been issued, and urging him to order its issuance in these words :

"Please, kindly, Your Honor, facilitate the needful and have me relieved once and for all from this great anxiety, or let me know if you will not allow the granted appeal, so that I may be forced to take recourse otherwise, which as I repeatedly tell you I am loathed to do. Too much is involved as you are aware, causing me to continually rely upon your faithful guarantees through the past months."

It is peculiar that, even though the appellant realized his right to other recourse, he did not take advantage of that right to safeguard his interest on appeal. As wrong as this act of the Probate Commissioner is, there can be no excuse for appellant's failure to have taken the proper legal steps to compel the Commissioner to allow his notice of appeal to be issued and served within proper time. And, strongly as we feel over this situation, we have to be reminded that courts will not do for litigants what they are expected to do for themselves. It was upon the ground that the notice of appeal had been issued and served outside the time required, that the appellees prayed the dismissal of appellant's appeal.

We come now to consider the motion to dismiss, in *Kimber v. Lloyd*, an action for damages for a wrong. Judgment in this case was rendered on July 12, 1956, and appeal was announced and granted therefrom. In Count "r" of the motion we are now considering, the appellee has contended that the appeal bond was not approved within the time required by statute; and in Count "2" of the said motion, the appellee has called attention to the absence of any notice of appeal in the records sent from the court below. Recourse to the records confirms these allegations.

The other two cases covered by this opinion are criminal. The prosecution of Elias G.

Mirza for smuggling was tried and judgment rendered on September 21, by the judge presiding over the August, 1955, term of the Circuit Court of the First Judicial Circuit, Montserrado County. The prosecution of C. G. Walters for embezzlement was tried in the February, 1957, term of the Circuit Court of the Third Judicial Circuit, and judgment was rendered on February 28, 1957. In both cases the defendants noted exceptions and announced appeals; in one the appellee has filed a motion to dismiss in which our right of jurisdiction has been questioned due to the absence of a notice of appeal served and returned in keeping with law. In the other case no motion for new trial was prepared and filed, which filing is a condition precedent to appealing from a verdict.

In *Morris v. Republic*, 4 L.L.R. 125 (1934), this Court held :

"1. Every appeal must be taken and perfected within sixty days after final judgment.

"2. The service of a notice of appeal upon the appellee by the ministerial officer of the trial court completes the appeal, and places appellee under the jurisdiction of the appellate court. When not completed within the statutory time, this Court will dismiss said appeal for want of jurisdiction.

"3. The statute relating to the time within which appeals must be taken is imperative and includes everything necessary to be done to bring the appellee properly before the appellate court.

"4. The failure to file an appeal bond duly approved by the trial judge within sixty days after rendition of final judgment is ground for dismissal of the appeal."

From the many instances in which appealed cases have been dismissed because of counsel's failure and neglect to perform their duty subsequent upon their announcement of appeals, we have been compelled to conclude that most of these acts of failure and neglect have been deliberate and purposeful. The sharp rise during this term of Court in the cases which have had to be dismissed because of professional irresponsibility, carelessness and neglect, has become dangerously alarming; it is therefore apparent that no more time can safely be allowed before taking drastic preventive measures to obviate recurrences of these unprofessional and unethical practices. There is no doubt that the final determination of causes by this Court of last resort, is a right guaranteed under our law to every litigant. It is also a bulwark of hopeful strength to all who would elect to test the legality of their acts, in the preservation of their rights and interests. Therefore no citizen, be he lawyer or

layman, will be allowed or permitted to deliberately and intentionally impair that right.

This Court has in the past maintained international recognition, and has compelled respect for the judiciary of Liberia, by the quality of legal services lawyers have given, and the conduct she has enforced upon her inferior tribunals. This has only been possible because of the stature of the men who have graced the legal bars of Liberia in the past. The rights of litigants have always been the serious concern of this Supreme Court. In the days of our fathers, members of the legal profession honored their professional obligations, and held in sacred regard the ethics of this noble profession. There is no reason why this Court should be expected to tolerate a change in professional attitude today.

The numerous and repeated acts of professional neglect in the handling of cases not only hurt the interests of those litigants adversely affected thereby but also exemplify poor legal representation in technical ability on the part of those lawyers involved, who form a part of our system ; our courts are thereby unfavorably affected. It is our view that it is much safer to drop a few names from our practicing rolls, and thereby continue to compel respect for and confidence in our courts, than to continue to carry lawyers who ignore and disregard their professional responsibilities to their clients ; for these must eventually endanger the good name of our trial courts, and the efficiency of our judiciary system.

Times without number this Court has laid it down that counsel appealing cases should so superintend them as to make it impossible for attention to be called to negligence of professional duty to clients. This Court will not assume jurisdiction which is not properly given by law.

Counsel conducting cases in the lower courts, and who desire to announce appeals from judgments entered against them, are warned that, hereafter, failure on their part to properly complete their announced appeals by performing each and all of the acts necessary under the statutes, and to do so within the time prescribed by law, will necessitate this Court taking such measures and enforcing such penalties as the circumstances in each case might warrant. And we wish to make it clear that, in cases of deliberate and flagrant neglect, the severest penalties will be imposed, even to suspension from practice.

Because it is our opinion that the grounds laid in the motions to dismiss in the four cases now under review are meritorious, it is adjudged that the same should be and they are hereby granted, and the appeals in these cases dismissed.

Appeals dismissed.