

JOSEPH J. WRIGHT, Brother and Next of Kin of the
Late EDDIE D. WRIGHT, Appellant, v. J. W. A.
RICHARDS, Curator of Intestate Estates, Montserrado
County, Appellee.

APPEAL FROM A JUDGMENT OF THE CIRCUIT COURT OF THE
SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Argued October 20, 1959. Decided January 14, 1960.

1. An appeal may be dismissed for failure to file an approved bill of exceptions within the statutory period of time.
2. An appeal bond which is not stamped in accordance with the provisions of the stamp act is invalid and renders the appeal subject to dismissal.

On appeal from a judgment upon a petition for a letter of administration of an intestate estate, *appeal dismissed*.

No appearance for appellant. *Momolu S. Cooper* for appellee.

MR. JUSTICE HARRIS delivered the opinion of the Court.

At the call of this case for hearing, the appellant did not appear, although notice of assignment had been served on him. The clerk informed the Court that a motion to dismiss the appeal had been filed, which motion the Court ordered read, and we hereunder quote:

"The appellee in the above-entitled cause, by and through the Beysolow and Cooper Law Firm, and represented by Momolu S. Cooper, Counsellor at Law, respectfully prays the Court to dismiss the appeal as brought before Your Honors with costs against the appellant because of the following reasons, to wit:

"1. Because appellee submits that the appeal ought to be dismissed with costs against the appellant, and

he so prays, because the final judgment from which the appeal is taken was rendered on October 30, 1957. The appellant, if intending to appeal from said final judgment to this Honorable Court, should have filed an approved bill of exceptions on or before November 9, 1957, ten days after said final judgment, and not on November 13, quite fourteen days after rendition of final judgment, as appears from the records certified here. And this the appellee is ready to prove.

- “2. And also because appellee says that, from a careful perusal of the copy of the appeal bond filed with the records, there is nothing on its face to show that the required revenue stamp was affixed to the said appeal bond as is required by law.”

Recourse to the records in this case establishes that the bill of exceptions in this case was filed on November 13, 1957, whilst the judgment was rendered on October 13, 1957, quite fourteen days after the rendition of final judgment, when it should have been filed ten days thereafter. Our civil procedure law provides:

“An appeal from a court of record may, upon motion properly taken, be dismissed for any of the following reasons:

- (a) Failure to file approved bill of exceptions within the time specified in section 1012 above;
- (b) Failure to file an approved appeal bond or material defect in an appeal bond (insofar as such failure or defect is not remedied in accordance with the provisions of section 1014 above);
- (c) Non-appearance of the appellant on appeal; or
- (d) Negligent failure to have notice served on the appellee.” 1956 Code, tit. 6, § 1020.

Further recourse to the records certified to this Court shows that the appeal bond does not bear a twenty-five cent revenue stamp so as to make it valid, neither is there any indication that it ever had one attached to it. A bond

which is not stamped in accordance with the Stamp Act is invalid. *Greaves v. Johnstone*, 2 L.L.R. 121 (1913).

The failure of the appellant to have affixed the legally required revenue stamp to his appeal bond created a material defect, and rendered the said bond invalid which was never remedied in accordance with the 1956 Code, tit. 6, § 1014.

The motion is therefore sustained and the appeal dismissed with costs against the appellant. And it is so ordered.

Appeal dismissed.