

Nykoi Jomah of the City of Monrovia, Liberia, APPELLANT VERSUS **Her Honor Comfort S. Natt**, Judge, National Labor Court, **His Honor Reginald W. Doe, Sr.** Director/Hearing Officer, Division of Labor standards, Ministry of Labor and the **Management/WAT**, thru Attorney-In-Fact, Michael T. Morgan of the City of Monrovia, Liberia, APPELLEES

LRSC 17

APPEAL

HEARD: October 21, 2014 DECIDED: February 20, 2015

MR. CHIEF JUSTICE KORKPOR DELIVERED THE OPINION OF THE COURT.

This case is on appeal from the ruling of Her Honour Comfort S. Natt, Judge of the National Labor Court, growing out of a petition for judicial review. The National Labour Court dismissed the petition for judicial review and confirmed the ruling of the Hearing Officer of the Ministry of Labor from which the judicial review was sought.

Here are the facts: On April 10, 2008, Nykoi Jomah, the appellant, was employed by the William A. Tubman (WAT) Estate, the appellee, by and through its Attorney-in-Fact, Michael T. Morgan. Although the employment was done in Monrovia, it was understood that the appellant was to be assigned to work in Pleebo, Maryland County as the Acting Manager of the WAT Estate. The appellant's letter of employment reads:

"WAT Estate
Monrovia, Liberia
April 10, 2008

Dear Mr. Nykoi Jomah:

This is to confirm your appointment as the Acting Manager of the WAT Rubber Estate in Pleebo, Maryland County. You are [given) a three months probationary period and upon which your performance will be re-evaluated for full appointment.

Your compensation will include lodging, transportation, and a salary of 400 United States Dollars a month. Your appointment takes immediate effect.

CONGRATULATIONS!

Best regards.

Michael T. Morgan
Attorney-in-Fact WAT Estate"

On September 5, 2008, after nearly five months of service, the appellant was dismissed by the appellee. We quote the letter of dismissal:

"September 5, 2008

Dear Mr. Nykoi Jomah:

Your visit to Monrovia in July delayed my coming to Pleebo at the time to evaluate your performance under

review.

After a careful review of your probationary period, I regret to inform you that WAT Farm cannot grant you a full employment at this time due to administrative reasons. We ask that you turn over all properties belonging to WAT Farm to Mr. Jerome Hinneh (Overseer). Thanks.

Best regards,

Michael T. Morgan
WAT Estate Administrator"

Being dissatisfied with his termination, the appellant filed a complaint with the Ministry of Labor alleging unfair labor practices. We quote the appellant's letter of complaint hereunder.

"Monrovia

September 13, 2008

Ministry of Labor
Monrovia

Attn: Hon. Samuel Kofi Woods, Minister

Dear Minister Woods:

I reside and was employed in Monrovia on April 10, 2008, by Mr. Michael T. Morgan, Attorney-in-Fact of the William A. Tubman (WAT) Estate in Maryland County, Liberia as Acting Manager for the rubber plantation in Pleebo City, Maryland County.

While in service for over six months in Pleebo, Maryland County, which is by far over the probationary period of 90 days, Mr. Morgan portioned me inhumane acts and has resulted to:

1. Denial (of full salary (US\$400.00) for the month of service (April 2008) rendered WAT Rubber Farm;
2. Denial of lodging compensation (April - September 2008);
3. Denial of transportation compensation (April- September 2008);
4. Refusing to underwrite cost of services incurred by WAT to business houses during my tenure thereby embarrassing me thus resulting me (to spending] my personal income;
5. Refusing me employment for what he termed "Administrative Reasons" after having served WAT for over 6 months;
6. Relieving me of my post in September, 2008, without prior notification and also not paying my current salary for September, 2008; and,
7. Refusing to transport me back to Monrovia where he had taken me from.

Sir, I pray your timely intervention so as to bring me relief as well as just compensation for my services (April - September 2008) rendered William A. Tubman Rubber Estate in Maryland County.

Best regards,

Respectfully yours,

Nykoi D. Jomah"

When the case was called for hearing at the Ministry of Labor on October 20, 2008, the appellee made a submission on the records requesting the Hearing Officer to dismiss it on the ground that the Hearing Officer, Ministry of Labor, Monrovia lacked territorial jurisdiction over the case.

The appellee relied on INA Decree no. 21, Article 1, Extension of Administrative Powers and Procedure of the Ministry of Labor, Count 3, Jurisdiction of the Hearing Officer which provides:

"Hearing Officers of the Ministry of Labor shall have territorial jurisdiction over cases arising in their respective counties or territories in the Republic of Liberia where their offices are located. The Minister of Labor, however, may assign a case of importance, if essential interests of the Government are involved, irrespective of where it originates, to a hearing officer at the Central Office of the Ministry of Labor in Monrovia, Montserrado County."

The submission was resisted, argued pro et con, and granted by the Hearing Officer. In his ruling entered on November 10, 2008, the Hearing Officer granted the submission, dismissed the case and advised the appellant to file his complaint in Pleebo, Maryland County, where the appellant worked because, according to the Hearing Officer, 'there is nothing in the case which the Government has interest in.' To this ruling, the appellant noted exception and filed a petition for judicial review before the National Labor Court. We quote the petition:

"Petitioner in the above entitled caused of Action being dissatisfied with the Ruling of the Hearing Officer in the above-entitled cause of Action, hereby petitions this Honorable Court for Judicial Review of the Ruing of Co-Respondent, Reginald W. Doe, Hearing Officer and the entire proceedings for the under listed reasons as follows to wit:

1. That the Ruling of the Co-Respondent, Hearing Officer on November 10, 2008, which is neither supported by the evidence adduced at the trial nor the Labor Law controlling in this jurisdiction coupled with the Co-Respondent Hearing Officer's own findings of the facts wrongly dismissing the Unfair Labor Practices case of the petitioner needs judicial review and hence the said Ruing of Co-Respondent Hearing Officer being vague and not in keeping with the Labor Practices Law [of Liberia] should be denied and reversed. Your Honor is most respectfully requested to take judicial notice of the records in these proceedings.

2. That the Co-Respondent Hearing Officer failed to properly adhere to the Labor Law and adequately interpret the nature of the dismissal of petitioner petition based purely on Administrative reasons, which is tantamount to Unfair Labor Practices but the Co-Respondent Hearing Officer failed to adhere to the nature of the dismissal of the petitioner and therefore judicial review will lie in order to set the record straight, because the Co-Respondent failure and neglect to present documentary evidence at the investigation and hence the ruling of the Co-Respondent Hearing Officer should be denied, set aside, and reversed in the interest of transparent justice. (See copies of minutes and ruling hereto attached and marked as exhibit P/1 in bulk to form a cogent part of this

petition).

3. That the Co-Respondent Hearing Officer, contrary to the Labor law as practiced in this jurisdiction and the fact that the Petitioner was employed in Monrovia by the Co-Respondent Management of WAT Estate through its Attorney-in-Fact, Michael T. Morgan, and transferred to Cape Palmas to work and following his wrongful dismissal, instituted an Action of Unfair Labor Practices against the Co- Respondent Management of WAT Estate through its Attorney- in- Fact, Michael T. Morgan, in Monrovia where the employment contract was consummated between the parties or where the petitioner was originally employed and therefore, territorial jurisdiction will not suffice as evoked by the Co-Respondent Management of WAT Estate through its Attorney-in- Fact, Michael T. Morgan, for reason that petitioner only performed duties in Cape Palmas. (See copy of the employment letter dated April 10, 2008, under the signature of Co-Respondent Michael Tubman Morgan hereto attached and marked as exhibit P/2.) And therefore judicial review will lie to reverse the baseless and unfounded ruling of the Co-Respondent Hearing Officer.

4. That the entire ruling of the Co-Respondent Hearing Officer is a travesty of justice and a legal blunder which if allowed to stand will make mockery of the Labor Practices Law of Liberia, for reason that petitioner was dismissed as per letter dated September 5, 2008, under the signature of Co-Respondent Michael Tubman Morgan, WAT Estates Administrator for administrative reasons, which is contrary to the Labor Practices Law in this jurisdiction and the Co-Respondent Hearing Officer neglected to observe the legal blunder as contained in the letter of dismissal. (See copy of the letter of dismissal hereto attached and marked exhibit P/3) and hence the entire ruling of the Hearing Officer should be reversed.

5. That the assertions by Michael Tubman Morgan, WAT Estate's administrator that "...[after] a review of your probational period, I regret to inform you that WAT farm cannot grant you full employment at this time due to administrative reason". This assertion is completely moot for reason that the employment period of petitioner from April 10, 2008 to September 5, 2008 is far and beyond the statutory requirement of probation. (See exhibit P/3 at count five (5) supra).

6. That the Co-Respondent Hearing Officer's failure to observe that Petitioner was employed in Monrovia by the Administrator of the WAT Estate, Mr. Michael Tubman Morgan, also Attorney- in- Fact resident in Monrovia and additionally the Ministry of Labor located in Monrovia, as administrative headquarters of all labor matters cannot be assumed and/or predicted that the action filed in the Division of Labor Standards, Ministry of Labor by the petitioner is defective and therefore, the ruling of the Co-Respondent Hearing Officer being vague and not in keeping with the Labor Practices Law should be denied and dismissed and the Petitioner be given his rightful entitlements by the Co-Respondent Michael Tubman Morgan, WAT Estate Administrator and Attorney-in- Fact, in keeping with the attached Power of Attorney executed in Montserrado County, Monrovia, Liberia and hence judicial review will lie to overturn the ruling of the Co-respondent Hearing Officer.

WHEREFORE AND IN VIEW OF THE FOREGOING facts and circumstances, your petitioner most respectfully prays this Honorable Court and Your Honor to reverse Co- respondent Reginald W. Doe, Hearing

Officer's ruling and grant unto your humble Petitioner any and or other relief as shall be just and proper in the interest of transparent justice.

Respectfully submitted

The above named petitioner by and thru his Counsel
Jones & Jones"

On November 26, 2008, the respondents filed returns to the petition for judicial review essentially contending that: (a) the place of work of the appellant was Pleebo, Maryland County; (b) the law grants the Hearing Officer the right to dismiss a labor case for lack of territorial jurisdiction; (c) the Government of Liberia has no interest in the case involving the appellant and the appellee; and (d) the case was dismissed not on its merits, but rather on jurisdictional ground which means that the appellant's case would be entertained if he files it before the proper forum.

On June 30, 2009, arguments were heard in the case and on September 11, 2009, Her Honor Comfort S. Natt, Judge of the National Labor Court, entered final ruling. She held that although the employment contract of the appellant was consummated in Monrovia, his assignment was in Pleebo, Maryland County, where he resided and worked. The Judge further held that "it is in Maryland County that he was dismissed and all witnesses who are to testify in [his) case reside." Judge Natt therefore concurred with the ruling of the Hearing Officer that this case should be heard in Pleebo, Maryland County.

The appellant, again being dissatisfied with the ruling of the National Labor Court, noted exception thereto and announced an appeal to the Supreme Court. He then filed a 5-count bill of exceptions assigning errors to the National Labor Court Judge's ruling. We quote the bill of exceptions:

"Appellant in the above entitled cause of Action, being dissatisfied with Your Honor's ruling/final judgment of September 11, 2009, in the Petition for Judicial Review, filed before Your Honor, hereby tenders this Bill of Exceptions, for Your Honor's approval for the following reasons:

1. That as to Your Honor's entire ruling confirming and affirming the ruling of the Hearing Officer, Appellant says that the said ruling/ final judgment was made contrary to law, practice and procedures in this jurisdiction and therefore despite Appellant's Counsel's convincing argument pro et con that the Appellee wrongfully dismissed the Appellant under the pretense of smoke scheme of Administration Reasons, applying the wrong rules against Appellant, citing the lack of jurisdiction, of which the contract for the employment of Appellant was consummated in Montserrado County, Liberia, and hence, Your Honor erred in confirming and affirming the ruling of the Hearing Officer of the Ministry of Labor, [to] which Appellant excepts and renders [this] Bill of Exceptions for Your Honor's approval.

2. That your Honor seriously erred when you rendered final judgment/ruling in the case at bar, relying on the same jurisdictional issue raised by the Appellee/Respondent at the Ministry of Labor, which did not properly handled the case, and was neither supported by the evidence adduced at the trial nor the Labor Law controlling in this jurisdiction coupled with the fact that the hearing officer's own findings of the fact wrongly dismissing

the Unfair Labor Practices case of the Petitioner needed proper judicial review, but Your Honor [has] confirmed the jurisdictional contention and upheld the ruling of the Labor Ministry, hence the said ruling being vague and not in keeping with the Labor Practices Law is a reversible error, hence [this bill] of exceptions.

3. That Your Honor further erred after the Appellee/Respondent admitted that petitioner was employed in Monrovia, Montserrado County, and seconded in Pleebo, Maryland County and the head office of the employer is located in Montserrado County, but the Hearing Officer contrary to the Labor Practices Law in this jurisdiction wrongfully dismissed the Petition under the principle of Administrative Reason, which facts and circumstances were not carefully examined by your Honor, which of course are contrary to the Labor Law and hence,[this bill] of exceptions.

4. That your Honor entire ruling is a travesty of justice and a legal blunder which if allowed to stand will make mockery of the Labor Practices Law of Liberia, for reason that Petitioner was dismissed as per letter dated September 5, 2008, under the signature of Co-Respondent, Michael T. Morgan, WAT Estates Administrator for administrative reasons, which is contrary to the Labor Practices Law in this jurisdiction and the Co-Respondent Hearing Officer and Your Honor refused to consider and observe the legal blunder as contained in the letter of dismissal of petitioner, but rather dismissed the case on jurisdictional ground, which is a reversible error on your Honor's part. Hence, this bill of exceptions.

5. And also because Appellant says for all sundry exceptions made to Your Honor's erroneous ruling and decisions which are now matter of court's records constituting strong basis for [this bill of exceptions] Appellant now files same for Your Honor's approval pursuant to the doctrine of appeal.

WHEREFORE AND IN VIEW OF THE FOREGOING, Appellant prays Your Honor to approve this bill of exceptions in accordance with law, practice and procedures.

Respectfully submitted,

APPELLANT BY AND THRU HIS LEGAL COUNSEL

JONES & JONES

P. O. Box 10-1891,

Randall Street Above Cherif Pharmacy,

Monrovia Liberia: Tel. 224393/227902"

From the contentions of the parties stated above, we see one principle issue determinative of this case- whether or not under the facts and circumstances of this case, the appellant's complaint of unfair labor practices can be heard and determined by the Hearing Officer at the Ministry of Labor in Monrovia? To state the issue even more succinctly- whether or not the appellant who was employed in Monrovia, Montserrado County, but was assigned, resided and worked exclusively in Pleebo, Maryland County can file a complaint of unfair labor practices at the Ministry of Labor, Monrovia for hearing and determination?

INA Decree no. 21, Article 1, Extension of Administrative Powers and Procedure of the Ministry of Labor, Count 3, Jurisdiction of the Hearing Officer provides:

"Hearing officers of the Ministry of Labor shall have territorial jurisdiction over cases arising in their respective counties or territories in the Republic of Liberia where their offices are located. The Minister of Labor, however, may assign a case of importance, if essential interests of the Government are involved, irrespective of where it

originates, to a hearing officer at the Central Office of the Ministry of Labor in Monrovia, Montserrado County."

It is clear, as seen from the quoted statute, that hearing officers are required, as a matter of law, to have jurisdiction over cases arising in their respective counties and territories where their offices are located. The only exception is where the Minister of Labor may assign a case of importance, "if essential interests of the Government are involved, irrespective of where it originates, to a hearing officer at the Central office of the Ministry of Labor in Monrovia, Montserrado County."

In the case before us, the complaint of unfair labor practices did not arise from or within the territorial confines of the Hearing Officer at the Ministry of Labor in Monrovia. The complaint came from an employee who worked exclusively in Pleebo, Maryland County. The appellant has not denied that his place of work, where he also resided, was in Pleebo, Maryland County. Therefore, the Hearing Officer in Montserrado County has no territorial jurisdiction to hear and determine the complaint of the appellant, as Maryland County does not fall within the territorial jurisdiction of the Hearing Officer in Montserrado County.

On the other hand, the appellant has not stated that the Government of the Republic of Liberia has some essential interests for which the case, though originating in Pleebo, Maryland County, was assigned by the Minister of Labor to be heard by the Hearing Officer at the Ministry of Labor in Monrovia, Montserrado County. And we do not see, on the records, any indication of essential interests of the Government of the Republic of Liberia to warrant the assignment of this case to be heard at the Central Office of the Ministry of Labor, Monrovia.

It is a settled principle of law in this jurisdiction that a judgment or ruling made by a court without jurisdiction is illegal and unenforceable. *Nah v. Topor and Toby*, 39LLR 144 (1998); A judgment against a person is void where the court lacks jurisdiction. *Badio and El Naser Export and Import Corporation v. The Liberia Industrial Development Corporation*, 35LLR 229 (1988).

Specifically as regards territorial jurisdiction, the Supreme Court has said that it is a jurisdiction which pertains to the territory in which the court sits, either of a state, or of a district, or of a particular area within which the court has legal authority to operate. *Morris v. Johnson*, 21LLR 93 (1972).

Further, it is a jurisdiction which limits causes arising out of or related to persons residing within a defined territory, such as a county or a judicial district, and the authority of any court is limited by the boundaries thus fixed. *Massaquoi v. Massaquoi*, 38LLR 3 (1995).

The Supreme Court has held, also, that when an issue of a court's jurisdiction is properly raised, the court must first pass upon said issue before proceeding further with the case. *Liberia Agricultural Company v. Mingle* 36LLR 413 (1989); *Bong Mining Company of Liberia v Bridgeway Corporation*, 36LLR 776 (1990). We must note that even though the Hearing Office at the Ministry of Labor is not a Court, it is a quasi-judicial forum. Thus, by parity of reasoning, the principles of laws cited *supra* are applicable where the issue of jurisdiction is

squarably raised as in the instant case.

We therefore hold that the Hearing Officer in this case acted properly when he first took up the issue of territorial jurisdiction raised by the appellee, and having found that he could not hear and determine due to lack of territorial jurisdiction over the appellee, he dismissed the case and directed the appellant to file his complaint in Maryland County.

Given what we have said, we see no reason to disturb the ruling of the National Labor Court which affirmed the ruling of the Hearing Officer at the Ministry of Labor, Monrovia.

WHEREFORE AND IN VIEW OF THE FOREGOING, the appeal is hereby denied without prejudice to the appellant to file his complaint at the proper forum, same being, Maryland County, if the appellant elects to do. The Clerk of this Court is hereby ordered to send a mandate to the National Labor Court to resume jurisdiction over this case to give effect to this judgment. And it is so ordered.

Counsellor Molley N. Gray, Sr., of the Jones & Jones Law Office, in association with, Sayma Syrenius Cephus of the SEMAR Law Office appeared for the appellant. Counsellor Roland F. Dahn of the Law Offices of Yonah Obey and Associates appeared for the appellees.