

NAZIM EL ALI, Appellant, v. REPUBLIC OF
LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,
MONTSERRADO COUNTY.

Argued March 17, 1970. Decided June 11, 1970.

1. Upon the failure of appellant to appear at the call of the case, although it will be dismissed on appellee's motion, pursuant to rule, when such nonappearance is involuntary, the sureties on the appeal bond will be discharged from all obligations thereunder.

The appellant appealed from his conviction of the crime of defrauding and cheating, but during the pendency of his appeal was deported as an undesirable alien. At the call of the case, the appellant, therefore, did not answer, nor file a brief. The Supreme Court *dismissed* the *appeal* on motion of the appellee, pursuant to its rules, but discharged the sureties on the appeal bond for the involuntary nature of appellant's absence.

G. P. Conger Thompson for appellant. *Department of Justice* for appellee.

MR. CHIEF JUSTICE WILSON delivered the opinion of the Court.

Appellant was indicted during the February Term, 1966, of the First Judicial Circuit Court, Montserrat County, for the crime of defrauding and cheating. He was found guilty after trial and has appealed from the judgment.

The record reveals that during the pendency of the appeal, the appellant was further charged with being an undesirable alien and deported. At the call of the case for argument before this Court, the appellant neither appeared nor filed a brief. Appellee's counsel moved the

Court to apply the rule relative to nonappearance of an appellant, and to dismiss the appeal. It was submitted to this Court that, in view of the deportation of the appellant, his sureties ought to be declared not liable on the bond because of the involuntariness of appellant's absence.

The rule provides that upon motion of the appellee an appeal may be dismissed for failure of the appellant to appear at the call of the case.

The application of the appellee being supported by the rule just referred to, the appeal is hereby dismissed, and in view of the cause of appellant's absence the sureties are hereby discharged from liability on their bond. And it is hereby so ordered.

Motion granted, appeal dismissed, sureties discharged.