

KAZIAH JACKSON BENSON, Appellant, v. JOSEPH N. TOGBA, Appellee.

MOTION TO DISMISS APPEAL FROM RULING OF COMMISSIONER OF PROBATE,
MONTSERRADO COUNTY.

Argued March 18, 1959. Decided April 24, 1959.

When neither a bill of exceptions, nor an appeal bond, nor a notice of completion of appeal has been filed within the statutorily prescribed period of time, the appeal must be dismissed.

An appeal from a final ruling of the tribunal below, *motion to dismiss the appeal granted.*

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 clerk informed us that a motion to dismiss the appeal had been filed by the appellee, which motion was ordered read. The said motion reads as follows:

"1. Because appellee says that, from the record in the case, as certified here by the clerk of the trial court, it is evident that the final ruling of His Honor, I. Van Fiske, Commissioner of Probate, from which this appeal was taken bears the date: May 18, 1955; but the bill of exceptions was not filed until July 21, 1955, a period of sixty-three days, although the law provides that a party intending to appeal his case to this Honorable Court from any final judgment should file his approved bill of exceptions within ten days after the rendition of said final judgment. Because of this in-

* Mr. Justice Pierre was absent because of illness and took no part in this case.

curable legal blunder, appellee prays the dismissal of the appeal with costs against the appellant.

- "2. And also because appellee says that the appeal should be dismissed and appellant ruled to all costs, since the appeal bond appearing in the records certified here is materially defective, it having been approved and filed three months and fifteen days, that is to say 105 days, after the rendition of the final judgment of the Commissioner of Probate from which this appeal was taken, when under the controlling statute, said appeal bond should have been filed within sixty days after the judgment.
- "3. And also because appellee respectfully submits that the appeal should be dismissed and the judgment of the trial court affirmed on the ground that no notice of completion of said appeal was issued and served on appellee or his counsel as the law directs; and since it is the service and return of the notice of appeal that places the appellee under the jurisdiction of this Honorable Court, which duty on the part of the appellant has not been performed, appellee prays dismissal of the appeal with costs against the appellant."

The statutes of Liberia provide that a party who intends to appeal to the Supreme Court of Liberia must tender to the trial Judge, for approval and filing, his bill of exceptions within ten days after the rendition of final judgment; and tender his appeal bond and notice of the completion of the appeal within sixty days after the rendition of final judgment. The laws relating thereto are mandatory and must be strictly followed or the appeal shall be dismissed. Recourse to the records certified to this Court substantiates the fact that the bill of exceptions was not filed until sixty-three days after final judgment, when it should have been filed within ten days thereafter. The appeal bond, it is further shown, was filed 105 days after the rendition of

final judgment, when it should have been filed within sixty days in keeping with law; and no notice of the completion of the appeal was ever issued, served or returned. This Court, under the circumstances, is powerless to review the case for lack of jurisdiction. The motion is therefore granted and the appeal dismissed with costs against the objector-appellant.

Appeal dismissed.