

CASES ADJUDGED
IN THE
SUPREME COURT OF THE
REPUBLIC OF LIBERIA

AT THE
MARCH TERM, 1968.

FURKPEH, alias LNG (Soldier), Appellant, *v.*
REPUBLIC OF LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
MARYLAND COUNTY.

Argued March 20, 1968. Decided June 14, 1968.

1. Failure to timely file a bill of exceptions is ground for dismissal of an appeal on motion by appellee.
2. Records certified as correct copies of originals are accepted as such by the Supreme Court, unless challenge is made thereto by a motion for diminution of record.

Some thirty-four days after final judgment was rendered by the trial court affirming the jury's finding of defendant's guilt on the charge of murder, a bill of exceptions was filed and an appeal thereafter taken by him. A motion to dismiss the *appeal* for failure to timely file a bill of exceptions, as required by statute, was *granted* and the case returned to the lower court to enforce its judgment of death.

S. B. Cole for appellant. *The Solicitor General* for appellee.

MR. JUSTICE ROBERTS delivered the opinion of the court.

During the November 1964 Term of the Circuit Court, Fourth Judicial Circuit, Maryland County, defendant Furkpeh, alias, a Liberian National Guard soldier, was indicted for the crime of murder, to which indictment he pleaded not guilty. The case came up for trial on August 10, 1965, and after hearing the evidence, the jury on August 14, returned a verdict of guilty against the defendant, to which verdict he excepted and filed a motion for a new trial. The motion for a new trial and a motion in arrest of judgment both being denied, the court on August 27, rendered its final judgment confirming and affirming the verdict of the jury, and sentenced the defendant to death by hanging.

It is from this final judgment and other rulings of the court below that defendant excepted, and appealed to this Supreme Court. At the call of the case, it was noted that the State had filed a motion to dismiss the appeal. Count one of the motion, which is the crux of said motion, reads:

“Because appellee says, that although final judgment was rendered on the 27th day of August, 1965, yet appellant neglected and failed to file his bill of exceptions until the 30th of September, 1965, approximately thirty-four days after final judgment, contrary to law.”

This is just another occurrence among the scores of instances where this Court has been impeded from exercising its function to delve into the merits or demerits of exceptions taken to the rulings and procedure of the courts below, due to the indifference and carelessness of lawyers. This is a case of murder, a capital offense, in which a penalty has been pronounced that defendant, the appellant, should be hanged by the neck until he is dead. That is, his life is to be extinguished and he is to be terrestrially no more. This is a Court of last resort, from which defendant has no other judicial forum to apply for review of his cause, and yet lawyers trifle. Our statute on appeal, which has been quoted in numerous opinions handed down by this Court, is very specific and involves no complication.

Our Civil Procedure Law provides, 1956 Code 6:1012,

“A bill of exceptions is a written instrument stating the judgment, decision, order, ruling, or other matter excepted to and the basis of the exceptions and containing a motion or prayer for relief. The appellant must tender a bill of exceptions, signed by him, to the trial judge, within ten days after rendition of judgment. The judge must sign the bill of exceptions (and the appellant shall be entitled to a writ from the appellate court compelling the trial judge to sign such bill if he refuses), but he may note reservations thereon. After the judge has signed the bill of exceptions, it shall be filed with the clerk of the trial court.”

Section 1020, of the same title, for grounds of dismissal of an appeal, states in subsection (a) :

“Failure to file bill of exceptions within the time specified in section 1012 above; . . .”

The records certified to this Court support the contention of appellee, which has not been really denied by the appellant. Appellant states in count three of his opposition to the motion :

“Since the original records in the case at bar are not before the Supreme Court, appellant contends and submits that a certificate under seal of court and signed by the clerk of the lower court should have been attached to the motion to support the allegation made in said motion, as it is possible there might be a typographical mistake in the date of approval of the bill of exceptions.”

This Court from time immemorial has accepted and given credence to records certified to this Court as being true and correct copies of the original. Any challenges to correctness are made by motions for diminution of records.

A failure to comply with the statutes on appeals lends such appeals, as in this case, to motions to dismiss by the appellee.