

WILMOT HILL, Appellant, v. REPUBLIC OF LIBERIA, Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,  
GRAND BASSA COUNTY.

Argued March 31, 1959. Decided April 24, 1959.

An appellant may waive right to an appeal by withdrawal thereof.

On appeal of a judgment of conviction upon a verdict of guilty of the crime of assault and battery with intent to kill, *appeal dismissed.*

*Wilmot Hill*, appellant, *pro se.* Assistant Attorney General J. Dossen Richards for appellee.

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

Upon process duly issued and served on appellant in this case, he was indicted, tried and convicted by a petty jury of the Circuit Court of the Second Judicial Circuit, Grand Bassa County, in its May, 1958, term.

Appellant claimed that all of the required steps for review of this case by this Court were taken by him, up to the service of notice of completion of appeal.

Upon the call of the case, appellee, through Assistant Attorney General J. Dossen Richards, filed a motion to dismiss said appeal, on the grounds that appellant had neglected to take the necessary jurisdictional steps to bring said appeal before this Court, namely, by failing to file either an appeal bond or bill of exceptions.

But before finalizing this opinion on the situation presented by the motion of appellee, which is not contested by appellant, we observe that a very strange coincidence

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

is disclosed by the record certified to us. By recourse to the final judgment in this case, it is observed that the trial Judge stated:

“Defendant gave notice that he will file a motion for new trial, thereby taking advantage of the statute thereto appertaining. Although the verdict was brought on Friday, June 6, yet up to Tuesday, June 10, that is to say, five days after the verdict was brought, defendant failed to file said motion.”

Thereafter the court reviewed the statement of witnesses who testified in the case, and rendered final judgment. Yet in the record before us there is a motion for new trial which apparently was filed two days before final judgment was entered. As to whether the motion was heard and denied or not entertained at all, there is no indication at all in the record, nor is there any ruling of the court on said motion. This is an anomaly that the trial Judge and the parties in the case preferred not to save for review by this Court, hence a strange coincidence.

Because of the voluntary withdrawal of said appeal by appellant, as much as this Court would like to inquire into this situation veiled in what appears to be a diminution in the record or error in procedure, we are unable to do so.

Therefore, in consideration of the announcement of withdrawal of the appeal by appellant, and in harmony with the decision of this Court in *New York v. Seabreeze*, 2 L.L.R. 26 (1909), the appeal is hereby dismissed, and the court below is ordered to resume jurisdiction and enforce its judgment. And it is so ordered.

*Appeal dismissed.*