

M. I. M. TIMBER COMPANY, Apellant, v.
JACOB BAYEH, Appellee.

MOTION TO DISMISS APPEAL FROM THE CIRCUIT COURT,
SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Argued March 17, 1971. Decided May 28, 1971.

1. A motion withdrawn before an appellate court cannot thereafter be amended.
2. An attorney who has not obtained his annual license is not privileged to practice before the court, and any papers prepared by such attorney for the consideration of a court are thereby rendered invalid.

In the course of an appeal by the defendant in an action for personal injuries, appellee moved to dismiss the appeal, which was opposed, one ground being the failure of appellee's counsel to obtain his annual license to practice law. Appellee thereafter withdrew the motion and subsequently sought to reinstitute it by an amended motion based on the original. The Supreme Court held the original motion a nullity, because of the status of counsel, and an attempt to amend the motion withdrawn, besides such contradiction, was an attempt to alter a thing which did not exist. *Motion to dismiss appeal denied.*

Richard A. Diggs for appellant. *The Garber law firm* for appellee.

MR. JUSTICE ROBERTS delivered the opinion of the Court.

In the Sixth Judicial Circuit, Montserrado County, Jacob Bayeh sued in damages for personal injury M. I. M. Timber Company, seeking special damages as well as general damages.

The case was heard during the June Term, 1969, when the jury returned a verdict in favor of plaintiff, awarding him \$4,764.75, special damages, and \$22,000.00 general

damages, aggregating \$26,764.75. Final judgment was entered. The defendant has appealed therefrom.

At the call of the case, we were presented with what purported to be an amended motion to dismiss the appeal. In looking for the original motion it was noticed that it has been withdrawn.

Unlike other areas, in appeals before the appellate court, though a motion may be filed and amended, when filed and withdrawn it cannot thereafter be amended.

Further, counsel for appellant raised the argument that the withdrawal of the motion sought to avoid the charge in the resistance to the original motion which attacked, besides the merits, the qualification of the lawyers who filed the motion.

The contention, that the neglect of counsellors for appellee to procure their annual licenses prior to the filing of the motion renders the motion invalid, is not strange. All lawyers practicing before this Court and other courts within this Republic must be qualified so to do. When the annual license has not been obtained that qualification is lacking as this Court has said in *Republic of Liberia v. Sherman*, 1 LLR 139 (1881), when it held that to be entitled to the privilege of obtaining a license as an attorney the party must be a lawyer, and the court granting said license has power, either by standing rules or otherwise, to declare what qualifications shall be requisite to constitute one a lawyer. An attorney, although qualified, is not entitled to practice before any Court before obtaining the license to do so required by statute. Where the term of an attorney's license has expired he is barred from practicing until it is renewed.

It is evident that counsellors procured their annual licenses after they withdrew the motion which had been opposed. Had they supplied the omission before the attack was made, it would have been a horse of another color.

Filing a document when one is not legally clothed with

authority to do so, renders that document invalid, and constitutes the legal maxim "what is not legally done is not done at all." It follows that even if the motion had not been withdrawn, but amended, it would have been tantamount to amending a motion which does not exist.

Consequent of the above, we are unable to grant the motion and it is hereby denied.

Motion to dismiss appeal denied.