

NANCY N. NAH, Appellant-Movant, v.  
BLECHO NAH, Appellee-Respondent.

MOTION FOR CONTINUANCE ON APPEAL FROM THE CIRCUIT COURT OF  
THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Argued May 5, 1966. Decided June 30, 1966.

1. Where the jurisdictional requirements of an appeal have been completed within the statutorily prescribed period of time and the appellee has been granted an assignment for hearing of the appeal, the Supreme Court will summarily deny a motion by the appellant for a continuance on the untenable ground that the appellee procured a premature transmittal of the record from the Clerk of the lower court to the Supreme Court.
2. A motion for continuance in any court is addressed to the discretion of the court subject to the limitations of the applicable statutory and common law and rules of court.

*A motion for a continuance of hearing on appeal was denied.*

*G. P. Conger Thompson* for appellant-movant. *J. Dossen Richards* for appellee-respondent.

MR. JUSTICE MITCHELL delivered the opinion of the Court.

An action of divorce for cruelty was sued out by Blecho Nah of Monrovia against his wife Nancy N. Nah, in the Circuit Court of the Sixth Judicial Circuit, Montserrado County. This case was called, heard and determined at the December 1966 term of the aforesaid court. The presiding judge rendered judgment on the 2nd day of February of the same year adjudging the parties divorced and to be considered as separate and distinct persons in law and equity. Defendant, now appellant, excepted to the judgment and appealed her cause before the October 1966 term of this Court for further adjudication regardless of the fact that this Court had not begun to sit in its

March 1966 term. All of the jurisdictional steps necessary to be taken were completed. The transcribed records were sent forward during the sitting of the March term for consideration. Plaintiff below, now appellee, being informed that the case had reached this Court, appeared and asked for advancement and assignment which request the Court granted and the case was accordingly advanced and assigned for hearing on the 5th day of May, 1966. Before the case was called on the day set for hearing, appellant's counsel filed the following motion for continuance.

"Appellant in the above-entitled case, by and through her counsel, most respectfully moves this Honorable Court for the continuance of the above cause to the October term 1966 of this Honorable Court for the following legal and factual reasons, to wit:

"1. That the final judgment in the above case was rendered on the 2nd day of February, 1966, within the March term of this Honorable Court, and therefore appellant gave notice of her appeal to the next term of this Honorable Court, which is the October 1966 term.

"2. That surprisingly to appellant she discovered that said case was docketed in the present March term of this Honorable Court, contrary to the notice of appeal given and granted by the trial court. Appellant submits that the statutes are unequivocal in the procedure as to when appeals are to be announced in the termination of cases in the trial court. Besides this, it is the obligation of the appellant to pay the clerk of the trial court for the transmission of the records to this Honorable Court; but in this case it appears that appellee undertook to have the said clerk of court prepare the records and transmit them to this court, contrary to the rules of procedure laid down by statutes and rules of court to be followed by appellant.

“3. That because counsel for appellant has numerous other briefs and pleadings to prepare and because this case itself is, by operation of law, not due for hearing before the October 1966 term of this Honorable Court, appellant’s brief in this case has not been prepared and consequently not filed.”

It is a fact that, in a growing country, all kinds of contrivances, both realistic and unrealistic, present themselves; and this is truly one of the unrealistic problems. Nowhere in the history of our jurisprudence have grounds for a continuance of a cause been submitted as in this case, which has brought us into deep thinking. But on the other hand, we can draw the conclusion that the motion testifies to the motive of the lawyer who filed it—Counsellor G. P. Conger Thompson.

There is no rule of this Court or law written out in our statute books which bars the time in which an appeal may be transmitted to this Court if all of the jurisdictional steps are completed within a shorter time than the law prescribes and the clerk has the facilities to do so within a lesser time than 90 days; and it is absurd for any petitioner in this Court to advance and argue such a proposition. Hence our minds have arrived at the conclusion that appellant’s counsel applied for continuance to the October 1966 term of this Court for no other purpose but to baffle the hearing of the cause, which we cannot and will not encourage under such circumstances.

A motion for continuance is always addressed to the sound discretion of the Court; and it must be consistent in practice and in harmony with the law; otherwise, it will receive the sanctions it deserves.

To say the least, it is very unfortunate that counsel for both appellant and appellee, shortly after their arguments on this untenable motion, were obliged to leave the bailiwick of this Court on other engagements before the case was reached again; and for this reason only, the case had of necessity to continue to the October term of this Court;

but we are strongly sounding the note of warning against the recurrence of this ungentlemanly practice unbecoming the conduct of a counsellor of this Court. Otherwise, we will not be hesitant to employ the deserved remedy to safeguard and protect the dignity of the Court.

The motion, therefore, being untenable in law and practice, is hereby dismissed with costs against the appellant. And it is hereby so ordered.

*Motion denied.*