OSARO VITO and ASARO SALVATORE, Appellants, *v.* NICOLA FORMUSA, Appellee.

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

Argued March 29, 1971. Decided May 28, 1971.

1. The failure to specify the term of Court to which an appeal is taken, does
   not constitute a ground for dismissal of an appeal, but the failure to file an
   approved bill of exceptions within ten days of judgment is such ground.

Appellee moved to dismiss the appeal on the grounds
of failure to specify the term of Court to which the appeal
was taken and failure to file an approved bill of excep-
tions timely. The Supreme Court held that only the
failure to file the bill of exceptions timely after approval
was a ground for dismissal of the appeal herein. *Motion
granted.*

No appearance for the appellants. *Lawrence A. Mor-
gan* for appellee.

MR. JUSTICE WARDSWORTH delivered the opinion of
the Court.

When this case was called, appellants failed to appear;
however, appellee having filed a motion to dismiss appel-
lants' appeal, it was considered.

The motion is based on the grounds that the bill of ex-
ceptions was filed late and the notice of completion of
appeal did not properly set forth venue. No opposition
has been made to the motion.

The contention of the appellee with respect to what
term of Court the appeal was taken would seem to have
some merit, but when we consider the legal grounds upon
which an appeal may be dismissed, this omission com-

plained of by appellee is not included therein and cannot be given legal sanction.

A look at the bill of exceptions verifies the fact that it was approved beyond the statutory time allowed, since final judgment was rendered on August 30, 1968, and the bill of exceptions was approved on September 12, 1968, thirteen days after rendition of final judgment. Obviously, it constituted more than the ten days the law permits for filing an approved bill of exceptions from the time of final judgment.

The motion to dismiss the appeal is hereby granted.

Motion to dismiss appeal granted.