

CHARLES R. CAMPBELL, Executor of the Will of THOMAS DORUM, Petitioner, *v.* HOWAH DORUM, Widow of the Late THOMAS DORUM, MOMO GRAY, Guardian with HOWAH DORUM of RACHEL MARSAH DORUM, and MARSAH, Legatees Under the Will of THOMAS DORUM, and NETE-SIE BROWNELL, Resident Judge of the Circuit Court of the First Judicial Circuit, Montserrado County, Respondents.

MOTION TO DISMISS PETITION FOR CERTIORARI.

Argued December 23, 1940. Decided January 17, 1941.

*A. B. Ricks* for petitioner. *B. G. Freeman* for respondents.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

During the reading of the records in this case when first called at this bar for review, it was discovered that notice had been served upon His Honor Nete-Sie Brownell, the trial judge, informing him of the filing of an application for a writ of certiorari by the petitioner, respondent in the court below, which said notice had then apparently been ignored. This Court thereupon suspended the further hearing of the appeal and ordered a summons issued commanding the aforesaid judge to appear and show cause why he should not be held in contempt. The contempt proceedings were duly instituted and a judgment rendered on May 5, 1939. [ED. NOTE: Case missing.]

Upon the resumption of the hearing at this term

Counsellor B. G. Freeman, on behalf of respondents-in-certiorari, filed a motion to dismiss the petition for certiorari because there was no certificate from counsel for petitioner, respondent in the court below, that, in his opinion, the application for a writ of certiorari was meritorious. Said motion cannot, in our opinion, be now considered because, the Court having already taken the matter into its legal embrace and having entered upon the hearing of the appeal by reading a part of the record, such a motion has been filed too late. It follows, therefore, that said motion should be denied, and the further hearing of the case immediately proceeded with. The costs of these proceedings are to be paid by the moving party, and all other costs to abide final judgment; and it is hereby so ordered.

*Motion denied.*