

H. LAFAYETTE HARMON, Plaintiff-in-Error, v.  
REPUBLIC OF LIBERIA, Defendant-in-Error.

WRIT OF ERROR TO SECOND CIRCUIT COURT, GRAND BASSA COUNTY.

Argued November 26, 1934. Decided December 7, 1934.

1. Any person applying for a writ of error must attach to his assignment of errors an affidavit, in which the affiant must, among other things, declare that he does not apply for the writ for the mere purpose of delay.
2. There should also be attached a certificate of a member of the bar of this Court, or of an attorney at law, that in his opinion real (substantial) errors are assigned.

*Motion to dismiss writ of error in action of escheat granted.*

*H. Lafayette Harmon* for plaintiff-in-error. *The Solicitor General* for defendant-in-error.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

This case comes to this Court upon a writ of error from the Circuit Court of the Second Judicial Circuit, Grand Bassa County, and is a case in which H. Lafayette Harmon, plaintiff-in-error, was dissatisfied with the decree rendered by His Honor M. Nemle Russell, resident Judge of said county, in a matter of escheat, in which the Republic of Liberia is defendant-in-error. Before the case could be called for hearing the Honorable Nete-Sie Brownell, who was Solicitor General of the Republic of Liberia at the last April term of this Court, submitted a motion to dismiss the petition, praying the dismissal of the writ of error, for sundry reasons; but the Court was not able to reach the cause at said term. The reasons are the following:

1. Because, the defendant in error says, contrary to the rule of the court prescribing how writs of error

are to be obtained, the petition filed in these proceedings has not been supported by an affidavit of verification setting forth that petitioner "does not apply for the writ of error for the mere purpose of delay," which averment is essential and a prerequisite to the procurement of a writ of error.

2. And also because, the defendant in error says, the petition for a writ of error in these proceedings is not supported by any certificate of a counsellor of this Court or any attorney of the Circuit Court within the jurisdiction where the trial was held to the effect that "in the opinion of said counsellor, or attorney, real errors are assigned therein," which averment is also essential, and a prerequisite to the granting of a writ of error.

Rule IV, 3, of the Revised Rules of the Supreme Court of Liberia provides that

"Any person wishing to bring a writ of error before this court shall file his assignment of error with the clerk of this court and shall verify the same, alleging in his affidavit of verification that he does not apply for the writ of error for the mere purpose of delay; and he shall have attached to his assignment of errors the certificate of one counsellor of this court, or any attorney of the Circuit Court, if no counsellor of this court shall reside within the jurisdiction where the trial was held, to the effect that in the opinion of said counsellor or attorney real errors are assigned therein. Said assignment of errors shall be considered and dealt with as a bill of exceptions. Immediately upon the granting of an application for a writ of error the clerk of this court shall issue the same, and the party shall deliver it to the marshal, or a deputy marshal for service upon the party against whom the writ is obtained." Revised Rules of the Honourable Supreme Court of Liberia, January term 1913, Rule IV, 3.

The rules and practice of the Court are the law of the

Court. This is a legal maxim. Every court is the guardian of its own records and master of its own practice. *Roberts v. Roberts*, 1 L.L.R. 107, 109 (1878).

This being so, plaintiff-in-error should have observed and followed same in its entirety, and failure so to do renders said writ of error void for want of jurisdiction; therefore defendant-in-error's motion to dismiss the petition for the writ of error is legally founded. Rule IV, 4, of the Revised Rules of the Supreme Court of Liberia, 1913.

In the case *Jantzen v. Stubblefield and Williams*, 4 L.L.R. 110, 1 Lib. New Ann. Ser. 113 (1934), and still more fully in the case *Wodawodey v. Kartiehn and George*, 4 L.L.R. 102, 1 Lib. New Ann. Ser. 105 (1934), this Court has clearly, although impliedly, expressed a disinclination to issue extraordinary writs as a matter of right. In the latter case mentioned it was specifically pointed out that the Legislature of Liberia acting under the Constitutional authority given them of "regulating the entire system of appellate procedure had from time to time passed laws prescribing the steps to be taken in an appeal," and that the old system of appeals by extraordinary writs had been abolished by implication. However, as is therein also explained, this Court had, by rule, made provisions not covered by the statute for persons who, without being guilty of laches, had lost their right of statutory appeal. As this rule is derogatory to the act, every step prescribed is jurisdictional, and must be strictly followed, or this Court cannot legally take jurisdiction. The rule having prescribed 1) that the applicant shall file his assignment of errors with the Clerk of this Court and shall verify the same, alleging in his affidavit of verification that he does not apply for the writ of error for the mere purpose of delay; and 2) that he shall have attached to his assignment of errors the certificate of one counsellor of this Court, or any attorney of the circuit court if no counsellor of this Court shall reside within the jurisdiction where

the trial was held, to the effect that in the opinion of said counsellor or attorney real errors are assigned therein, and the plaintiff-in-error having neglected to comply therewith, it follows that we have no option but to quash the writ, and notify the court below of this opinion, giving said court permission to take such steps as it may deem necessary to enforce its judgment. And it is so ordered.

*Motion granted.*

MR. JUSTICE RUSSELL being the trial judge of the lower court, took no part in the consideration or decision of this case.