

WEST AND COMPANY, foreign merchants of Europe doing mercantile business in the City of Monrovia and elsewhere in Liberia, by and through their agent H. LOESER, Appellant, v. VARNEY MARBU, Appellee.

APPEAL FROM THE MONTHLY AND PROBATE COURT, GRAND CAPE MOUNT COUNTY.

Decided May 8, 1931.

When the notice of appeal has been served upon appellee, on his failure to appear before this Court on the day the case is called up for hearing, judgment will be rendered by default.

Complaint in an action of debt was dismissed by the Monthly and Probate Court. On appeal to this Court and non-appearance of appellee, case *dismissed*.

*Barclay & Barclay* for appellant. No appearance for appellee.

MR. JUSTICE KARNGA delivered the opinion of the Court.

This case originated in the Monthly and Probate Court, Grand Cape Mount County. From the records, it appears that in the month of December, 1929, the appellants filed in the said court below an action of debt against the appellee for the sum of one hundred sixteen dollars and eighty cents; the case was not called up for hearing until at the April term of said court, 1930, when the complaint of the plaintiff, now appellant, was dismissed by the judge. The said plaintiff in the court below being dissatisfied with the rulings and final judgment of the said Monthly and Probate Court, has brought the case to the Supreme Court for review.

Upon the calling of the case for hearing the counsel for the appellant made a motion to grant the said appellant's

judgment by default because of the non-appearance of the appellee. The said appellee having been called three times at the door of the Court by the Marshal, failed to appear. It is the opinion of this Court that when a notice of appeal has been issued, served upon appellee or his attorney, and duly returned by the ministerial officer of the trial court, failure of the appellee to appear on the day the case is called up for hearing, judgment will be rendered by default upon motion properly made. The case is therefore dismissed with costs against the appellee, and it is so ordered.

*Dismissed.*