

CASES ADJUDGED  
IN THE  
SUPREME COURT OF THE  
REPUBLIC OF LIBERIA

AT  
APRIL TERM, 1938.

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VARNIE D. SANDFISH, Appellant, v. W. H.  
JAMES, Appellee.

MOTION TO DISMISS APPEAL.

Argued April 4, 1938. Decided April 22, 1938.

1. An appeal bond materially defective is ground for a dismissal of an appeal.
2. It is the duty of the appellant in taking out an appeal to see that every necessary requirement of the law is met, and for any failure or neglect so to do upon application made by appellee, said appeal will be dismissed.

Appellee moved to dismiss the appeal brought from the judgment entered in an action of debt brought in the Circuit Court of the Fifth Judicial Circuit, Grand Cape Mount County. *Motion granted.*

*L. G. Freeman* for appellant. *T. Gibli Collins* for appellee.

MR. JUSTICE DOSSEN delivered the opinion of the Court.

This cause comes up to this Court of last resort from the Circuit Court of the Fifth Judicial Circuit, County of Grand Cape Mount, Republic of Liberia, upon a bill of exceptions. At the call of the cause for trial in this Court, the appellee entered and filed in the Court a mo-

tion to dismiss the appeal for legal reasons therein assigned. The relevant portion is as follows, to wit:

- “1. Because the certified copy of the appeal bond, filed with the records in this cause, does not show upon face thereof, that the original bond has been stamped; and such deficiency makes said bond defective and of no legal validity.
- “2. And also because the certified copy of the bill of exceptions filed with said case fails to show that the original has been stamped, it being the nature of the complaint *ore tenus* against the actions of the trial court.
- “3. And also because the purported copy of the bill of exceptions filed in this case is not that required by law, but that the original should have been filed instead of a copy.
- “4. And also because the appellant has neglected to complete his appeal within statutory time, in that, the costs accruing in this case in the court below have not been paid by said appellant as should have been done; since it is obvious that the amendatory Judiciary Act of 1894 was not repealed in express language by the Act of Legislature 1936, nor are the two irreconcilably inconsistent as the evident intent of the latter was merely to alter and amend the 430 section of the 1st volume of the Revised Statute which does not also repeal said prior Act either expressly or by implication.”

The third point in the bill of exceptions in this case is in violation of the rule, that cases can only be heard here on certified copies of the record sent up from the trial court. As recently as on May 14th, this Court ordered records in two cases withdrawn in order that certified copies be substituted for the original records then sent up. See: interlocutory order, *Dennis v. Republic and Richards v. McGill and McGill-Hilton*.

As the other issues contained therein are so elementary and have been passed on by this Court several times, we do not deem it necessary to enter into an elaborate opinion thereon, but to simply reiterate what this Court has said in previous opinions containing similar issues. As to count one of said motion, this Court will reiterate the opinions handed down in the case *Melton and Banks v. Republic*, which was decided at our April term, 1934, the relevant portion which reads thus:

“Failure to file an appeal bond duly executed and signed by the trial judge within the time prescribed by law is a ground for dismissal of the appeal by the appellate court.” 4 L.L.R. 115, Syllabus, 2., 1 Lib. New Ann. Ser. 117.

Also in the case *Morris v. Republic*, decided May 4, 1934, which reads *inter alia*, to wit:

“It is the duty of the appellant in taking out an appeal to see that every necessary requirement of the law to perfect and complete a legal appeal is fully complied with within the time prescribed by law, and, for failure or neglect so to do, upon application by the appellee, said appeal will be dismissed.” 4 L.L.R. 125, 127, 1 Lib. New Ann. Ser. 126-127.

Upon careful scrutiny of the records filed in this appeal, the Court finds that the prerequisites of the law have not been met nor complied with by appellant, which is fatal to the successful prosecution of the appeal by appellant. Said motion is therefore sustained, the appeal dismissed, and appellant ruled to pay all legal costs, and the court below is hereby instructed to resume jurisdiction and to execute its judgment; and it is hereby so ordered.

*Motion granted.*