Bashir v RL [2016] LRSC 31 (21 September 2016)

Jaafar Bashir of the City of Monrovia, Liberia, APPELLANT VERSUS **Republic of Liberia,** APPELLEE

APPEAL

JUDGMENT WITHOUT OPINION

When this case was called for hearing, Counsellor Sayma Syrenius Cephus appeared for-the appellant. Counsellor John A. A. Gabriel, Director, Sexual and Gender Base Violence Crimes Unit, Ministry of Justice, appeared for the appellee.

At the call of the case on September 5, 2016, Counsellor Sayma Syrenius Cephus, by leave of Court, made a submission on the minutes of Court that the appellants/respondents desired to formally and unconditionally withdraw the appeal announced from the ruling of His Honor Mr. Justice Philip A. Z. Banks, Ill., then presiding in the Chambers of this Court. He requested this Court to issue the necessary orders leading to the formal withdrawal of this case in keeping with the Rules of the Supreme Court. To this submission, the counsel for appellee/petitioner interposed no objection.

The Court in addressing the Submission referred to the Supreme Court Rule on Withdrawal of cases which states: Whenever the appellant and appellee or the petitioner and respondent vacation by themselves or either counsel signs; and files with the Clerk an agreement in writing directing the cause to be withdrawn and specifying the terms on which it is to be withdrawn as to cost., shall pay to the Clerk any fee that may be due him and the ministerial officers. It shall be the duty of the Clerk to enter the case withdrawn upon the approval of the Chief justice or any Justice of the Court and to give either party requesting, a certificate of withdrawal."

The Court observed that the counsel for the appellants/respondents was in error for having previously filed a Notice of Withdrawal before Her Honor Sie-A-Nyene G. Yuoh who was at the time presiding in Chambers, thereby violating the accepted rule which requires that once an appeal has been announced from a ruling of a Justice in Chambers, that Justice loses jurisdiction over the case, and the Supreme Court en banc is seized of the matter.

Thus, any request to withdraw the said appeal should be placed before the Court en banc as provided for under Rule #3, Sub. Sec. 2 of the Supreme Court Rules.

The Court then mandated the two counsels in this case to meet, agree on the manner of withdrawing the case, specifying the terms thereof, pay cost as directed by the Supreme Court Rule, and venue the withdrawal before the Full Bench of the Supreme Court within three (3) days as of September 5, 2016,

The Counsels, in compliance with the mandate of this Court, on September 7, 2016, filed with the Clerk of this Court a Notice of Withdrawal to Terminate Appeal", which was approved by the Chief Justice, His Honor Francis S. Korkpor, Sr.

Having reviewed the Notice of Withdrawal to Terminate Appeal" filed by the Counsels for the parties and being satisfied that it is in keeping with the Rules of this Court, it is hereby:

ADJUDGED:

That the appeal announced by the appellants in the above captioned case from the ruling of His Honor Philip A. Z. Banks, III., February 13, 2015, is hereby ordered withdrawn. The Clerk of this Court is ordered to strike the said appeal from the docket of this Court, issue a Certificate of Withdrawal in favor of the appellants, and send a mandate to the judge presiding in the court below to resume jurisdiction over this case and proceed in keeping with law. Costs are ruled against the appellants/respondents. It is so ordered.

GIVEN UNDER OUR HANDS AND THE SEAL OF THE SUPREME COURT OF LIBERIA THIS 21ST DAY OF SEPTEMBER, A.D. 2016

[Please see pdf file for signatures]

Note: Mr. Justice Philip A. Z. Banks, III., did not participate in the hearing and determination of this matter, as it emanates from a decision he made while in Chambers. Hence, he did not sign this judgment.

Note: Madam Justice Jamesetta H. Wolokolie heard this case but due to her travel out of the country on account of emergency, was not present when this case was finally decided; hence she did not sign this judgment.